

DELTA PROTECTION COMMISSION

14219 RIVER ROAD

P.O. BOX 530

WALNUT GROVE, CA 95690

PHONE: (916) 776-2290

FAX: (916) 776-2293



February 10, 1995

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Copies of All Written Correspondence Received on
Revised Draft Plan (December 1994)

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Danny L. Mercer
Consulting Environmental Chemist

8990 W. Howard Road
Stockton, CA 95206
(209) 469-3817
FAX 469-3818

November 26, 1994

Margit Arambura, Executive Director
Delta Protection Commission
14129 River Road
P.O. Box 530
Walnut Grove, CA 95690

Dear Director Arambura:

My name is Dan Mercer. I am a Consulting Environmental Chemist and I live on Union Island in the San Joaquin Delta west of Stockton. Last week I attended a meeting of the San Joaquin County Planning Commission in which there was a lengthy debate about passing a county restriction to eliminate the agricultural recycling of municipal wastewater biosolids in the primary zone of the San Joaquin Delta. The fundamental argument put forward by the people advocating this position is that the practice of recycling biosolids in agriculture is somehow unsafe and threatens the soil, the groundwater and the surface water in the Delta. **Nothing could be further from the truth.**

The people who opposed the environmentally sound practice of biosolids recycling at last week's meeting are an odd coalition of local landfill operators who have a financial interest in thwarting all recycling programs, farmers who are quite legitimately concerned about the encroachment of urban development into farm country and oppose the building of wastewater treatment plants in the Delta, and those of the "Chicken Little" mentality who always believe that the sky is falling.

After listening to these people make all kinds of dire predictions about an impending environmental disaster if biosolids are recycled in local agriculture, the Planning Commission had the opportunity to hear from a small number of individuals who pointed out the scientifically proven facts about the safety and benefits of biosolids recycling. These people urged the Planning Commission to make rulings based upon facts and common sense, not emotional hysteria or the hidden agendas of special interest groups. In the final analysis the Planning Commission saw no reason to take any action on the proposed ban in spite of the obvious and intense lobbying they had received from various special interest groups. In closing, however, the Planning Commission stated that the Delta Protection Commission was considering similar regulations that would implement a ban on biosolids recycling throughout the entire San Joaquin Delta.

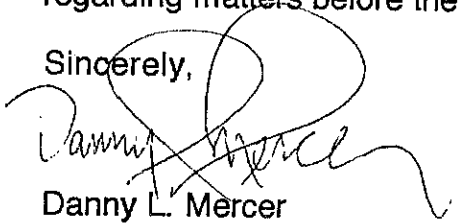
As a practicing environmental scientist with over fifteen years of experience in protecting and promoting the environment, my advice to the Delta Protection

If there is a need to develop more regulations to protect the San Joaquin Delta ecosystem, then the efforts of the Delta Protection Commission should be directed toward enacting restrictions on agricultural practices which have known and well documented environmental impacts. For example, the Delta Protection Commission should consider regulations that ban aerial spraying of pesticides, place restrictions on the use of chemical fertilizers and herbicides and regulate irrigation practices to conserve water and reduce pesticide and herbicide laden runoff into the San Joaquin River and San Francisco Bay.

However, in the recent November elections I believe that the voters clearly called for a reduction in unnecessary regulations and a lessening of governmental intrusion into our everyday lives. After USEPA spent ten years and over ten million dollars of Taxpayer money to develop comprehensive, scientifically based national biosolids recycling regulations that protect human health and the environment, then what possible justification can there be for any state, regional or county agency to implement duplicative regulations that increase bureaucracy, drive up costs, discourage recycling and further restrict individual freedom?

Please put my name on your mailing list for any future meetings or correspondence regarding matters before the Delta Protection Commission.

Sincerely,



Danny L. Mercer

cc: Delta Protection Commission
Delta-Sierra Group of
the Sierra Club
Dr. Alan J. Rubin
San Joaquin Co. Board of Supervisors
Senator Patrick Johnston



Delta Diablo Sanitation District

OFFICE AND TREATMENT PLANT: 2500 PITTSBURG-ANTIOCH HIGHWAY, ANTIOCH, CA 94509
TELEPHONE: (510) 778-4040 ADMIN. FAX: (510) 778-8513 ENG. FAX: (510) 706-7156 MAINT. FAX: (510) 778-8565

December 30, 1994

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
14219 River Road
P. O. Box 530
Walnut Grove, CA 95690

SUBJECT: RESOURCE MANAGEMENT PLAN

Dear Ms. Aramburu:

At the District's December 14, 1994, meeting, the Board of Directors heard a presentation regarding your agency's proposed Resource Management Plan for the Delta. The presentation covered the requirements and legal authority for the Delta Protection Commission and the requirement for the Resource Management Plan. The Board, at that time, directed me to write you regarding, in particular, Utility Policy P-3, related to the complete ban on the utilization of biosolids and recycled water in the primary zone.

The Board, requests that the Commission not move forward with establishing Policy P-3 at this time. It is the Board's position that this could establish a very dangerous precedent for the perception of the use of biosolids and reclaimed water throughout the state of California. In addition, it is incumbent upon the Commission not to violate or contradict existing State laws related to the handling of these commodities. It appears from our evaluation that State law now adequately regulates the issues of disposal of biosolids and reclaimed water on any land in the state of California. In addition, the State Water Resources Control Board and the Regional Board permitting processes would deal with the very issues that have been raised by the Commission.

While we can understand the possibility that some Commissioners may consider the utilization of these lands for wastewater treatment or disposal as problematic, we do not believe that the Commission should be establishing regulations and planning policies which preclude the possibility of these uses or disposal opportunities should they be determined to be economically or politically acceptable. We would suggest that if the Commission continues to be concerned about this issue, that they withhold any final action on this policy and seek additional information and scientific and legal input regarding the appropriateness of utilization of primary or secondary zone lands for these types of uses. The Commission, if they were to find after further study and evaluation that this policy is necessary, could reconsider that at that time.

We believe that the Commission has not currently had the opportunity to thoroughly evaluate or consider the significant and extensive body of information from both State and Federal evaluations of the utilization for these commodities on all lands. We would respectfully request that the Commission withhold any action on Policy P-3, eliminate it from their Resource Management Plan, and continue to research this matter before establishing a policy which could have long reaching affects and could create confusing perception problems for the utilization of these very necessary and valuable resources.

December 30, 1994

We appreciate the opportunity to comment on behalf of the District and look forward to the Commission's positive consideration of our suggestions and recommendations. We would appreciate a response as to the Commission's actions on Policy P-3 at the conclusion of their hearings.

If you should have questions or wish additional information with regard to this letter or the Board's actions and comments, please contact me at (510) 778-4040.

Very truly yours,



Paul H. Causey
General Manager/District Engineer

PHC:dcw

cc: Tom Torlakson, Director
Jim Kelly, Central Contra Costa Sanitary District
Stan Dean, Sacramento Regional Water Quality Control District
Bobbi Larson, California Association of Sanitation Agencies



**SAN JOAQUIN COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT**

1810 E. HAZELTON AVE., STOCKTON, CA 95205-6232
PHONE: 209/468-3120 Fax: 209/468-3163

December 30, 1994

M E M O R A N D U M

TO: Margit Aramburu, Executive Director, Delta Protection Commission

FROM: Peggy Keranen, Deputy Director *P.K. (W.K.)*

SUBJECT: Revised Draft Land Use and Resource Management Plan for the Primary Zone of the Delta, December, 1994

Following are my comments on the Revised Draft Land Use and Resource Management Plan for the Primary Zone of the Delta. A heavy work load did not permit me to comment on the earlier draft. I appreciate your willingness to consider my comments at this time. Minor editing changes are proposed on the enclosed marked-up pages of the draft.

Introduction

pages 1 and 2: The last paragraph on page 1 states that recommendations may apply to more than one local government, whereas page 2 states that recommendations cannot be carried out by local government. It appears that some of the recommendations would be applicable to local government as well as other agencies; for examples see R-2 on page 8, R-7 on page 15, and R-6 on page 22. With respect to the policies, local governments may not have jurisdiction to act on some of the policies. Some of these have been noted in my comments.

Environment

p.8, Environment Policy P-1: Local government has control over land use, but not land management per se. I suggest that this policy be reworded as follows:

The priority land use of areas of prime soil ~~is~~ shall be agriculture. ~~if~~ if commercial agriculture is no longer feasible due to subsidence or lack of adequate water supply or water quality, ~~Delta lands shall be managed for~~ land uses which protect other beneficial uses of Delta resources, and which

DPC Memo to Margit Aramburu
December 30, 1994
Page 3

Zone is acceptable if the mitigation program supports continued farming."

Agriculture

p.26, Agriculture Policy P-2: The following change in wording of the first sentence is proposed: "~~Identify and protect t~~The unique qualities of the Delta which make it well suited for agriculture shall be protected."

Recreation

p.39, Recreation Policy P-3: The policy should specify that the siting criteria are for recreation projects.

Levees

p.47, Levees Policy P-2 and p.49, Levees Recommendation R-12: The Policy states that local government shall adopt state and federal vegetation guidelines, if needed, while the recommendation states that appropriate vegetation guidelines should be established. In light of the current status of guidelines, local governments should not be required to adopt specific guidelines, which may not be appropriate.

Marine Patrol

p.55, Marine Patrol Policy P-6: Local government may not have the funds to provide adequate levels of marine patrol, even with the funding sources suggested in Policy 11. This policy should contain the qualification: "if adequate funding is available."

p.56, Marine Patrol Policy P-7: Identification of problems and solutions to environmental pollution extends beyond local government and should be the responsibility of a state agency.

Thank you for the opportunity to comment on the revised draft plan. If you have any questions regarding my comments, I may be contacted at (209) 468-3146 after January 16th (I'll be on vacation until then.)

PK:jjf
Enclosure
c. Supervisor Barber
DPC File: 9.2.04.11
DPCREV.DFT

January 10, 1995



Ms. Margit Aramburu
Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690

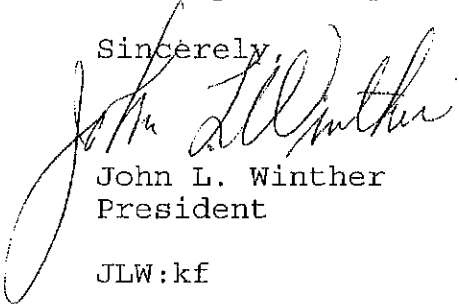
Dear Ms. Aramburu:

I have the revised draft of the *Land Use and Resource Management Plan for the Primary Zone of the Delta* and have the following general comment:

Chapter 5, Paragraph 29760 b (14), of the Delta Protection Act of 1992 indicates that water reservoirs and habitat development that are consistent with other uses in the Delta will be permitted by the Resource Management Plan. There is no mention in your draft land use plan to indicate this element of the act. I am not certain where it is best to mention this in your document and will defer to your judgment as to how the intent of the act best be displayed in your most recent document.

Thank you for your consideration.

Sincerely,



John L. Winther
President

JLW:kf

10 January, 1995

Margit Aramburu
Executive Director
Delta Protection Commission
14219 River Road
P.O. Box 530
Walnut Grove, California 95690

Dear Margit:

Thank you for the opportunity to comment on the current Delta Protection Commission Land Use and Resource Management Plan for the Primary Zone of the Delta. Wheelabrator Clean Water Systems - Bio Gro Division (Bio Gro) fully supports the goals of the Plan to preserve agriculture and water quality in the region.

As a company specializing in the beneficial use of biosolids, Bio Gro works with farmers to develop fertilization plans including biosolids. Bio Gro agrees with P-5 in the Agriculture section of the Plan, "Local governments shall support current and alternative programs to develop economically viable alternative types of fertilizers, pesticides and herbicides as long as crop production levels and agricultural income can be maintained." The beneficial use of biosolids at agronomic rates provides farmers with an economically viable alternative to chemical fertilizers at a significant cost savings.

However, the language in the Utilities and Facilities section does not address the beneficial use of biosolids for agriculture in the Delta. Beneficial Use programs are established based on the soil and fertilization needs of specific agriculture crops. Biosolids are then applied at agronomic rates (rates that match the fertilizer needs of the crop) which vary depending on the crop to be grown. The difference between beneficial use and dumping or construction of processing facilities lies in the benefits to agricultural land and production.

Currently, biosolids application is regulated on the federal, state, and, in some cases, local levels in California to ensure that biosolids are applied in a manner to protect public health and the environment while providing benefits to agriculture. For example, the Regional Water Quality Control Boards issue permits for biosolids application based on specific qualities of individual farm fields. Each permit must conform with the procedures outlined in the California Environmental Quality Act (CEQA) which establishes that these practices will not have a negative impact on the environment.

Beneficial use of biosolids plays a role in the protection of the long-term viability of agricultural land through economic and agronomic benefits.

- Biosolids must meet regulatory criteria set forth by federal EPA 503 regulations, Regional Water Quality Control Boards, California Food and Agriculture licensing, CEQA, and local review of comprehensive management plans.
- Beneficial use of biosolids benefits farmers; it does not have the same impact as facility development or dumping on farmland.
- Beneficial use of biosolids corresponds to the Delta Protection Plan goals of preservation of agriculture and water resources.
- Biosolids are a slow release fertilizer and are less water soluble than chemical fertilizers which benefits the Delta.

Section P-3 of the Utilities and Infrastructure section forbids the use of biosolids on agricultural land. Bio Gro suggests that the last sentence of this section either be deleted or replaced by the following language:

Replace: To protect long-term viability of agricultural lands in the Primary Zone, neither treated wastewater nor biosolids shall be released onto or into such lands.

With: **The application of biosolids as approved by the Water Quality Control Board and United States Environmental Protection Agency (EPA) appropriate at agronomic rates is encouraged to support agriculture in the Delta.**

Without this change, farmers within the Primary Zone will not be able to benefit from the agronomic use of biosolids.

Again, thank you for the opportunity to comment on the beneficial role of biosolids in the Primary Zone of the Delta. We look forward to working with the Delta Protection Commission and area farmers toward meeting the goals of strengthening agriculture and protecting water quality in the Delta. Please do not hesitate to contact me at 714/476-4080 with any questions or comments.

Sincerely,



Linda Novick
Technical Services Coordinator

cc: Delta Protection Commissioners



CITY OF STOCKTON

DEPARTMENT OF MUNICIPAL UTILITIES

2500 NAVY DRIVE
STOCKTON, CA 95206-1181
(209) 937-8750
FAX (209) 937-8708

January 12, 1995

Margit Aramburu, Executive Director
14219 River Road
P. O. Box 530
Walnut Grove, CA 95690

USE OF RECYCLED WATER AND BIOSOLIDS IN THE DELTA PRIMARY ZONE

You will by now have received an Issue Paper prepared by Tri-TAC dated December 20, 1994 regarding the use of recycled water and biosolids in the Delta Primary Zone. It is our understanding that the Delta Protection Commission is considering banning the use of recycled water and biosolids outside the primary zone from being used in the primary zone. If you have not yet seen this Issue Paper, please advise me and a copy will be FAX'ed to you.

Tri-TAC has very carefully researched this issue and has concluded that there is absolutely no scientific basis for taking this action. Use of recycled water and biosolids under proper conditions has been accepted as safe and beneficial for many years. Adequate state and federal regulation of these uses already exists to insure that there will be absolutely no adverse effect upon human health or the environment.

The City of Stockton supports the position of Tri-TAC on this issue and very strongly urges the Commission to reconsider this proposal. Such a ban would certainly be arbitrary and capricious. It would needlessly prevent the Delta Primary Zone from receiving the benefit of the use of these natural resources, and add greatly to the cost of resources management. In this day and age of shortages, the Commission should be acting to enlighten the public on the benefits of using recycled water and biosolids as a resource, rather than to continue to attach a stigma to such use.

MORRIS L. ALLEN
DIRECTOR OF MUNICIPAL UTILITIES

MLA:pb

BAY- DELTA OVERSIGHT COUNCIL

1416 NINTH STREET, SUITE 1155
SACRAMENTO, CA 95814

Please Address Communications to:

P.O. Box 942836
Sacramento, CA 94236-0001

Phone: (916) 657-2666
FAX: (916) 654-9780



January 12, 1995

Ms. Margit Aramburu
DELTA PROTECTION COMMISSION
14219 River Road
P.O. Box 530
Walnut Grove, CA 95690

Dear Margit:

Thank you for providing me with a copy of the Delta Protection Commission's (DPC) Revised Draft Plan for BDOC staff review. I was pleased to notice that some changes had been made which were responsive to our comments on the previous draft, particularly with respect to the subsidence issue.

As before, our primary concern is that through its Plan the DPC not foreclose potential options that may contribute to resolving the full range of problems in the Delta. We are especially sensitive to policies and recommendations that could potentially limit in-Delta habitat enhancement and statewide water management initiatives. Two sections of the revised plan remain of concern.

The first is Water Recommendation R-1:

The Delta waterways should continue to serve as a primary
~~the~~ transportation system moving water to the State's natural
and developed water systems.

While we appreciate the change which was made, it would be helpful if the Commission could somehow confirm or clarify that "a primary" is used loosely and that there is not an expectation that the Delta water transportation system must remain "first or highest in importance" as "primary" is defined by Random House. While I cannot envision a scenario that would completely remove the Delta as a cog in California's water transportation system, it is certainly possible that other forums may recommend its role be diminished. Deletion of the word "primary" would eliminate such possible future inconsistencies.

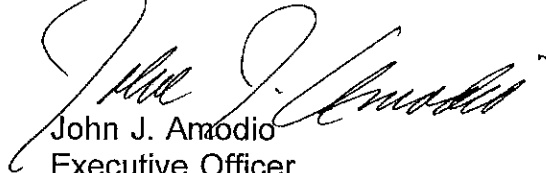
The second change of interest is the new Utilities and Infrastructure Policy P-3:

. . . To protect long-term viability of agricultural lands in the Primary Zone, neither treated wastewater nor biosolids shall be released onto or into such lands.

Though we certainly understand the DPC's desire not to displace agricultural lands for wastewater treatment and disposal, this policy appears to foreclose the use of wastewater on agricultural lands and adjacent properties for habitat enhancement; a potential option being investigated by the BDOC's technical advisory committees. To account for this possibility, perhaps tacking on the words "for the purposes of wastewater treatment or disposal". This could both address the DPC's concerns and provide more flexibility for creating seasonal wetland habitat and storing or treating Delta agricultural drainage before it is discharged into Delta channels. Another suggestion is to insert the word "municipal" between "treated" and "wastewater" for clarification purposes.

We appreciate your continued good work. Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in dark ink, appearing to read "John J. Amodio". The signature is fluid and cursive, with a large initial "J".

John J. Amodio
Executive Officer
Bay-Delta Oversight Council

cc: Bob Potter

the McCARTY Company
Diversified Agricultural Services

January 13, 1995

Ms. Margit Aramburu
Delta Protection Commission
PO Box 530
Walnut Grove, CA 95690

Dear Margit:

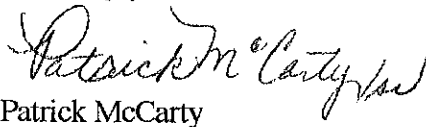
Following please find the proposed recommended language change to P-3, page 13 of the Revised Draft Land Use and Resource Management Plan for the Primary Zone of the Delta:

P-3 New sewage treatment facilities (including storage ponds) and areas for disposal of sewage effluent and sewage sludge serving uses outside the Delta Primary Zone shall not be located within the Delta Primary Zone.

(Note: The Rio Vista Project as described in the adopted Final Environmental Impact Report for such project and the Ironhouse Sanitary District use of Jersey Island for disposal of treated wastewater and biosolids are exempt from this policy.)

Should you have any questions in this matter, please don't hesitate to contact me.

Sincerely yours,


Patrick McCarty

/skr

James M. Kelly
President
Peter M. MacLaggan
1st Vice President
Keith Israel
2nd Vice President
Judith Dickson Parker
Secretary-Treasurer
David Nagler
Executive Director



January 18, 1995

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
P.O. Box 530
Walnut Creek, CA 95690

Dear Ms. Aramburu:

At its adjourned December 8 meeting, the Board of Directors of WateReuse Association of California adopted the enclosed resolution regarding a proposed prohibition of recycled water imports into the Primary Zone of the Delta. The resolution is hereby forwarded to you for formal introduction to the Commission at its next regularly scheduled meeting.

The WateReuse Association of California represents water agencies and wastewater management entities involved in and planning for water reuse projects throughout the state of California; our member agencies' efforts are a critical part of a state-wide effort to meet the Legislature's adopted goal of recycling 1,000,000 acre-feet per year by the year 2010. The WateReuse Association is equally committed to the protection of the public health and of the environment wherever reclaimed water is utilized. WateReuse works within the existing protective frameworks that are created for safe and prudent use of reclaimed water. As professionals in this field, we are dismayed at the proposed ban because it ignores the tremendous body of experience in this state pointing to the safety of the practice of water recycling under a wide variety of conditions -- while conforming to the provisions of Title 17 and Title 22 of the California Code of Administration. A ban would hinder the state-wide goal of recycling 1,000,000 acre-feet per year by 2010. Therefore, we oppose the proposed ban.

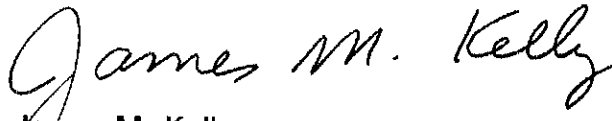
The existing provisions of Title 17 and Title 22 provide assurance that water reuse will be safe and not degrade water quality. Further restrictions of water reuse appear to be in conflict with Section 29715 of the Delta Protection Act, which states that "To the extent of any conflict or inconsistency between this division and any provision of the Water Code, the provisions of the Water Code shall prevail." Section 13550 of the Water Code states that "The Legislature hereby finds and declares that the use of potable domestic water for nonpotable uses, including but not limited to cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses, is a waste or an unreasonable use of such water within the meaning of Section 2 of Article X of the

Ms. Margit Aramburu
January 18, 1995
Page 2

California Constitution if reclaimed water is available which meets all of the following conditions...." Essentially, the Water Code requires that recycled water be used when it is safe, available, and economical. Furthermore, the Water Code also has numerous sections that assure the protection of both surface and groundwater water quality. Therefore, a ban would impose more stringent regulations on water reclamation than currently exist in the Water Code.

We will appreciate an opportunity to make an oral presentation to the Commission to make some specific suggestions on how the soil and water quality of the Delta could be protected through application of existing state laws and regulations. We would welcome being invited to do so.

Sincerely,


James M. Kelly
Past President

JMK:lbp

Enclosure: Resolution 94-2

cc: Board of Directors, WaterReuse Association of California

**RESOLUTION 94-2 OF THE BOARD OF DIRECTORS OF
WATEREUSE
ASSOCIATION OF CALIFORNIA**

WHEREAS, the Department of Water Resources estimates that California will need to increase its water supply by 3,000,000 to 5,000,000 acre-feet per year by 2010; and

WHEREAS, the California State Legislature has adopted state-wide goals for water reclamation providing 700,000 acre-feet per year by the year 2,000, and 1,000,000 acre-feet per year by 2010 to help the state meet its future water needs; and

WHEREAS, water recycling stretches water supplies thereby protecting and preserving the watershed environments; and

WHEREAS, on June 1, 1994, a statement of support for water reclamation was signed by representatives of federal, state, and local agencies having jurisdiction over water supply, water quality, public health, and the environment; and

WHEREAS, water reclamation has long been occurring naturally along river courses as well as through intentional, artificial replenishment, with no ill effects on human health; and

WHEREAS, there is substantial factual information to indicate that use of reclaimed water is a safe and vital water management tool in California for meeting future water supply needs; and

WHEREAS, the Delta Protection Commission has directed the Commission staff to draft language for inclusion in the Delta Protection Plan that would ban the use of reclaimed water generated outside the Primary Zone of the Delta within the Primary Zone of the Delta; and

WHEREAS, WaterReuse believes a ban by the Delta Protection Commission of the use of reclaimed water generated outside the Primary Zone of the Delta within the Primary Zone of the Delta is based on an unfounded fear of public health effects and environmental impacts that are unsupported by technical or medical findings; and

WHEREAS, the consequences of a ban by the Delta Protection Commission would be disruptive to the development of new water supplies in California; and

WHEREAS, WaterReuse believes the Delta Protection Commission has legitimate policy concerns and goals and that those legitimate goals and concerns are either addressed by existing laws or can be accomplished without an outright ban; and

WHEREAS, WaterReuse has actively supported water reclamation through the state:

NOW, THEREFORE be it resolved that:

- 1. The WateReuse Association of California will continue to support appropriate water recycling projects by its members.**
- 2. The WateReuse Association will support efforts by the Delta Protection Commission to accomplish its mission and to protect soil and water quality by application of existing federal and state laws and regulations.**
- 3. The Association will continue to oppose the unfounded bans of water reclamation that will obstruct water recycling locally and state-wide.**

January 19, 1995

To: Delta Protection Commission
From: Margit Aramburu, Executive Director
Subject: Summary of Comments Submitted by Tim Wilson

- p. 21, P-4: Line 3, Retain the word "adjacent".
- p. 22, R-3: Add to the end of the recommendation "Public agencies shall provide funds to replace lost tax base when land is removed from private ownership."
- p. 28, P-10: Leave in place the paragraph now designated for deletion.
- p. 30, F-2: Define term "State's developed water".
- p. 30, F-5: Indicate amount or percentage of water available for "other" uses.
- p. 31, F-18: Delete "may".
- p. 41, R-5: Supports study of banning night fishing in the Delta.
- p. 44, Goal: Stress need for coordinated permit reviews.
- p. 49, R-10: Retain recommendation about study of turbidity.

Tri-TAC

Jointly sponsored by:

League of California Cities

California Association of Sanitation Agencies

California Water Pollution Control Association

Reply to:

December 21, 1994

Margit Aramburu, Executive Director
14219 River Road
PO Box 530
Walnut Grove, CA 95690

Subject: Delta Protection Act Implementation: Biosolids and Recycled Water

Dear Ms. Aramburu:

This letter is to transmit an issue paper on the proposed ban on importing biosolids and recycled water into the primary zone of the delta. The paper has been prepared by Tri-TAC which is a non-profit professional organization sponsored by the League of California Cities, California Association of Sanitation Agencies (CASA), and the California Water Pollution Control Association (CWPCA). Tri-TAC's mission is to work with regional, state, and federal regulatory agencies on matters relating to publicly owned treatment works (POTWs), with the goal of improving the overall effectiveness of environmental programs and regulations that impact POTWs in California.

It is the opinion of Tri-TAC that the proposed ban is unnecessary to protect public health and the environment, is not needed to achieve the objectives of the Delta Protection Act, and is not consistent with the authority of the Delta Protection Act. Furthermore, the proposed ban is counterproductive to statewide recycling efforts and could have far reaching impacts.

It is requested that you review the attached issue paper. If you would like more information, we would be pleased to assist you, and would appreciate the opportunity to meet with you to discuss the issues in more detail. A list of contacts and phone numbers is provided at the end of the paper.

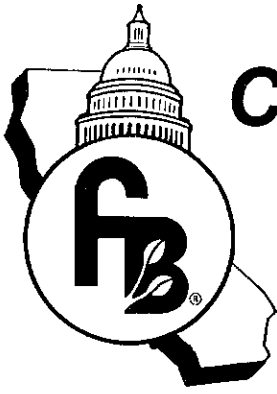
Sincerely,

by Stan Deann

Robert Baker
Tri-TAC Chair

Attachments

SRD:ma
A:MERGE001.PRI



California Farm Bureau Federation

January 23, 1995

James C. Eller, Manager
Governmental Affairs Division
1127-11th Street, Suite 626
Sacramento, California 95814
Telephone: (916) 446-4647

Ms. Margit Aramburu
Executive Director
Delta Protection Commission
P.O. Box 530
Walnut Grove, California 95690

Dear Margit:

Farm Bureau appreciates this opportunity to comment on the revised Land Use and Resource Management Plan for the Primary Zone of the Delta. It appears from the new draft that the commission was very open to public input as it includes many of the comments submitted on the previous version. We would like to call to your attention two important requirements omitted from the previous draft, restate our concerns regarding two issues from the earlier draft, and provide several additional comments regarding the new language in this draft.

We have discovered two extremely significant omissions from the regional plan that are required in Chapter 5 of the Johnston Act (commencing with Section 29760):

- Subdivision (e) of Section 29760 reads as follows: "To the extent that any of the requirements specified in this section are in conflict, nothing in this division shall deny the right of the landowner to continue the agricultural use of the land."
- Section 29767 reads as follows: "In implementing the regional plan, the exercise of the power of eminent domain is prohibited unless requested by the landowner."

The inclusion of this language in S.B. 1866 was absolutely essential to obtain our support for this measure as well as the support of the five affected county Farm Bureaus. We feel strongly that it is even more important to include these adopted state policies in the plan itself. Because of its relevance to the implementation of the overall goal of the plan, we respectfully suggest that the language in Section 29670(e) be included on page one at the end of paragraph four of the Introduction. The new language should read: "Also pursuant to the Act, to the extent that any of the requirements specified in this Land Use and Resource Management Plan are in conflict, nothing in this plan shall deny the right of the landowner to continue the agricultural use of the land."

We believe that the language contained in Section 29767, relative to eminent domain, is such a significance policy statement that it belongs in both the Introduction and as a policy statement in Land Use section of the plan. In the Introduction, we suggest that an appropriate location would be in the last paragraph just before the last sentence on page two. Our suggested language would read: "It is important to note, however, that in the implementation of both the policies and recommendations of this plan, the Act specifically prohibits the exercise of the power of eminent domain unless requested by the landowner." As a policy statement, we respectfully request the inclusion of a new Land Use Policy P-9, on page 22, to read: "The implementation of the policies and recommendations contained in this plan shall not be achieved through the exercise of the power of eminent domain unless requested by the landowner."

Regarding our letter of October 26, 1995, we hope the Commission would seriously reconsider two of our previous comments in the hope improving the plan:

- We would like to reemphasize our belief that it is not the business of the Delta Protection Commission to insert itself in the public trust boundary disputes between the State Lands Commission and the private landowners in the Delta. Therefore, we must strongly object to the new language that has been added in paragraph four of the introduction of the Land Use section on page 16.

We must also continue to recommend the deletion of Land Use Recommendation R-2 on page 22. The resource management plan will not be furthered or enhanced in any way by encouraging the state to finance any escalation in the adversarial relationship between the State Lands Commission and Delta landowners. We believe that the State Lands Commission has on many occasions treated Delta landowners in a less than forthright or evenhanded manner. Also, we believe that including this recommendation relative to the State Lands Commission is inconsistent with the statutory provisions contained in Sections 29714, 29760(b) and 29760(e).

- We must also renew our previous request that Agricultural Policy P-5, on page 26, be reworded to encourage improving the economic viability of Delta agriculture by implementing the latest strategies to minimize costly production inputs. For example, this policy might read: "Support should be given to current and alternative programs that help to minimize the need for costly production inputs such as fertilizers, pesticides, and herbicides as long as crop production levels and agricultural income can be maintained. Improving crop production and agricultural income is vital to the success of Delta agriculture." While the second sentence may seem more like a finding than a policy, we nevertheless believe the statement is crucial to understanding the overall objective of this *agricultural policy*.

We would also like to offer several new comments on various elements of the plan:

- The last sentence in Agricultural Finding F-11, on page 25, needs to qualify its categorical declaration. We suggest the following: "However, many of the existing programs do not reflect the unique Delta resources and opportunities."
- Agricultural Policy P-1, on page 26, should more accurately reflect the purpose of the regional plan by narrowing its focus to the Delta, therefore, we recommend that you strike "California" and insert "the Delta."
- Agricultural Policy P-2, also on page 26, needs clarification as to the action required. We recommend that the first sentence read as follows: "Local governments shall identify and protect the unique qualities of the Delta which make it well suited for agriculture."
- Agricultural Policy P-4, again on page 26, needs to be a stronger statement with a more appropriate rationale. We suggest the following change: "Local governments shall support long-term viability of commercial agriculture in the State and the Delta ~~based on new international trade opportunities and new directions in the use of agricultural products~~ because of its economic and environmental importance to the State and local communities."
- Agricultural Policy P-7, on page 27, needs to be more specific relative to the agricultural nature of the conservation easements. After all, this is the agriculture section of the plan. We urge you to accept the following proposed changes: "Encourage acquisition of agricultural conservation easements as mitigation for projects within each county, or through public or private funds obtained to protect agricultural lands, and open space values, and habitat value that is associated with agricultural operations. Encourage transfer of development rights within land holdings, from parcel to parcel within the Delta, and, where appropriate, to sites outside the Delta. Promote use of environmental mitigation in agricultural areas only when it is consistent and compatible with ongoing agricultural operations and when developed in appropriate locations designated on a county-wide or Delta-wide habitat management plan."

We believe the suggested changes in the last sentence above are especially important because this policy should be consistent with both the Environmental Policy P-1 and Land Use Recommendation R-3.

- Agricultural Policy P-9, on page 27, needs further clarification relative to minimum parcel sizes. We recommend that a third sentence be added to read as follows: "This policy shall not be construed to required the re-zoning of subminimum parcels."

Ms. Margit Aramburu

January 23, 1995

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- In the introduction of the Levees section, on page 42, we suggest the following change to add another important reason to require proper levee maintenance: "There are also other impacts associated with levee failures in the Delta which including, but not limited to, severe alteration of the aquatic habitat that should also be recognized and noted."
- In the newly added second sentence of Levees Policy P-1, on page 47, we must strongly recommend that this policy statement be a mandate, not a recommendation. Specifically, we believe this statement should read: "Delta levee maintenance and rehabilitation ~~should~~ shall be given priority over other uses of the levee areas."

Finally, from an editorial standpoint, we would like to point out a couple of typographical errors or poorly worded sentences that you and your staff may have missed:

- In the introduction of the Land Use section, on page 16, it would be clearer to start the fourth paragraph with "This" instead of "The".
- In the first sentence of Land Use Finding F-4, on page 17, following "agriculture" strike the colon and insert a semi-colon.
- In the fourth sentence of Land Use Finding F-5, on page 18, after "agricultural land use" insert a comma.
- In Agriculture Recommendation R-3, on page 28, Farm Bureau should be capitalized in "county Farm Bureau."

Margit, thanks again for the opportunity to offer our comments.

Sincerely,



John R. Gamper

Director

Taxation and Land Use

cc: Honorable Pat Johnston
Contra Costa County Farm Bureau
Sacramento County Farm Bureau
San Joaquin County Farm Bureau
Solano County Farm Bureau
Yolo County Farm Bureau



IRONHOUSE SANITARY DISTRICT

FAX
(510) 625-0169

450 Walnut Meadows Drive • P.O. Box 1105 • Oakley, CA 94561

Telephone
(510) 625-2279

January 23, 1995

Delta Protection Commission
14219 River Road
P.O. Box 530
Walnut Grove, CA 95690

Re: Ironhouse Sanitary District - Jersey Island

Dear Commissioners:

Ironhouse Sanitary District very much appreciates the Commission's willingness to exempt the Ironhouse Jersey Island project from proposed Utilities Policy P-3 of the revised Plan, which policy generally prohibits release of wastewater or biosolids on lands in the Primary Zone. Ironhouse would like to request a modification in the exemption to better adapt the exemption to Ironhouse's plans and better meet the needs of the Delta.

The exemption is limited to Ironhouse's present EIR project, which uses the approximately 80% of Jersey Island which Ironhouse purchased in April of 1993. However, Ironhouse's plans include use of the remaining 20% of Jersey Island, an additional approximately 700 acres. Ironhouse accordingly proposes that the exemption be revised to include Ironhouse use of Jersey Island generally, in order to provide Ironhouse flexibility to implement its plans for the remaining 20% of the Island.

The reasons for the change are as follows.

- To enable use of the remaining 20% of the lands to buffer the Ironhouse operation from the homes and other uses in the more developed areas near the Island.

- To enable Ironhouse to meet the mitigation requirements of the various regulatory agencies by providing on-site, in-kind mitigation using the lands most desirable for this purpose.

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- To enable Ironhouse to amortize the cost of its capital improvements across a broader acreage.
- To enable Ironhouse to exercise rights of first refusal to portions of the remaining lands which it received as part of its 1993 purchase.
- To encourage Ironhouse to upgrade the levees on this critical western Delta island, thereby helping to safeguard the Delta against further salinity intrusion.

For example, Ironhouse presently owns the southeast corner of the Island. Some of this area is not well suited to agricultural use, but has the mature trees and wetter soils which make it desirable wildlife habitat and potential wetland. Revision of the exemption to include the remaining 20% of the Island would enable Ironhouse to convert this southeast area to wetlands and habitat, in effect replacing it with a portion of the remaining 20% of the Island.

The remaining 20% of the Island is largely fallow pasture land with a soil quality no better, and in some respects worse, than the rest of the Island. There are no structures in this area, and the land has generally been neglected by its absentee owners. Its taxes are in default, and it does not contribute to levee maintenance. Cattle run loose on the road to the Webb/Bradford ferry. Portions of the area have been used as a dump. Ironhouse would require all dumping to end, would actively ranch and farm the area, and would provide on-site, day-to-day management. Ironhouse would also upgrade the levees on the Island, helping to safeguard the Delta against further salinity intrusion.

Ironhouse has reviewed the proposed change in the exemption with Mr. Dante Nomellini, Manager and Co-Counsel, Central Delta Water Agency, and understands that the Agency supports this change in the exemption.

Conclusion

Ironhouse Sanitary District respectfully requests that the exemption from policy P-3 be revised to enable Ironhouse flexibility to use the remaining 20% of Jersey Island.

The present exemption is as follows:

Note: The Ironhouse Sanitary District project and Rio Vista project, as described in the respective

adopted Final Environmental Impact Reports, are
exempt from this policy.

Ironhouse proposes that this exemption be modified to read as
follows:

Note: The Ironhouse Sanitary District use of Jersey
Island for disposal of treated wastewater and
biosolids and the Rio Vista Project as described in
the adopted Final Environmental Impact Report for
such project are exempt from this policy.

Thank you for your attention to this matter. Please do
not hesitate to telephone me at 415-392-3600 if I can be of
any assistance.

Respectfully submitted,

IRONHOUSE SANITARY DISTRICT



Robert L. Henn, Counsel

RLH:jmj

CC: Members, Delta Protection Commission
Members, Board of Directors, Ironhouse
Sanitary District
David N. Bauer, District Manager
Marvin Lindorf, District Consulting Engineer
George Tchobanaglou, Professor of Environmental
Engineering, University of California, Davis.



4565 Quail Lakes Drive, Suite A-1 Stockton, California 95207
(209) 474-7581 FAX (209) 474-9105

January 24, 1995

VIA FACSIMILE NO. (916) 776-2293

Delta Protection Commission
P. O. Box 530
Walnut Grove, California 95690

Dear Commission Members:

I am manager of the California Asparagus Commission and have been working in the asparagus industry for approximately thirty-five (35) years.

The California Asparagus Commission is a State commission established by Agriculture Code Sections 78201, et seq. The production and marketing of asparagus produced in the State has been declared by law to be affected with a public interest. The California Asparagus Commission represents approximately eighty percent (80%) of the asparagus producing area in California including the Sacramento and San Joaquin Delta area. The tasks of the Commission include the development, maintenance and expansion of foreign and domestic markets and promotion of asparagus sales.

Almost all of the California asparagus is marketed as a fresh vegetable. About twenty-eight to thirty percent (28 - 30%) is exported and the balance is marketed throughout the United States. The fresh asparagus and other fresh vegetable markets and particularly the export markets are very sensitive to product quality. The application of sewage sludge or wastewater to asparagus plantings or fields which will be planted or areas in the immediate vicinity of such fields could have a disastrous impact on the marketability of California asparagus.

Most of the asparagus produced in California is produced in the area of the primary zone of the Delta Protection Act. I support the exclusion of sewage sludge and wastewater from the Delta Primary Zone and would advise further that sewage sludge or wastewater not be used on any food crops or lands intended to produce food crops.

Very truly yours,

A handwritten signature in dark ink, appearing to read "William P. DePaoli".

William P. DePaoli



CITY OF WEST SACRAMENTO

*Where efforts and values are focused on the creation of the
Premier City of the Sacramento Valley*

City Council
City Administration
Personnel

2101 Stone Boulevard
916-373-5800
Fax: 916-372-8765

Finance

2101 Stone Boulevard
916-373-5816
916-373-5810 Utilities
Fax: 916-372-8765

Police

305 Third Street
916-372-2461
Fax: 916-373-0517

Fire

1751 Cebrian Street
916-373-5840
Fax: 916-371-5017

Public Works

1951 South River Road
916-373-5850
Fax: 916-371-1516

Building

1951 South River Road
916-373-5822
Fax: 916-371-1516

Parks &

Community Services

1951 South River Road
916-373-5860
Fax: 916-371-1516

Redevelopment

Economic Development

Housing

1102 Jefferson Boulevard
Suite D
916-373-5843
Fax: 916-373-5848

Community Development

Code Enforcement

1951 South River Road
916-373-5854
Fax: 916-371-1516

January 24, 1995

Ms. Margit Aramburu
Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, California 95690

Dear Ms. Aramburu:

As the staff member responsible for the review of the Delta Protection Commission's Draft Plan, I was dismayed at its contents. I strongly urge the Commission to table consideration of the adoption of this plan until a full presentation is made on the legal, environmental, and legislative implications of the Plan. I also urge staff to make amendments to the Plan in order to avoid challenge. The City of West Sacramento is particularly concerned with the Land Use, Water, Utility, Marine Patrol, and Implementation elements. Also, while not affecting the City directly, the Environment, Utility, and Levee elements need revisions and clarifications.

Land Use policy P-8 states that mitigation in the Primary zone is acceptable if it supports continued farming. This policy places no restrictions on the type of mitigation, only on the resultant usage. As written, this policy is acceptable. However, Utilities policy P-3, as revised, conflicts with the land use policy by restricting the type of mitigation measures without any regard to the resultant usage. In addition to being internally inconsistent, this policy P-3 has no environmental basis or supporting documentation. In fact, the environmental analysis, on page B-11, notes that enhanced treatment of wastewater and biosolids may make these materials acceptable for irrigation and fertilization of landscaped areas and recreational facilities. While the policy does have a basis when discussing untreated waste, the environmental document clearly establishes beneficial uses for treated waste. Either the policy needs to be revised to make a distinction, or the environmental document needs an in-depth analysis on the water quality and quantity impacts on the diversion of treated waste from the Delta.

This same policy, P-3, exempts the Rio Vista and Ironhouse facilities. However, the DPC legislation exempts facilities for Stockton, Lodi, and unincorporated towns within the Delta. This divergence from the legislation needs to be explained.

The Water element does not clearly discuss or differentiate the impacts of the water quality issues. The environmental analysis is equally silent on these issues. Without the in-depth explanation of the quantitative effects that each of these issues presents, the Commission will not be able to make an informed decision on the policies. Such an analysis should include the current water quality in various drainages, the change to water quality if treated waste is added, and the change to salinity control if treated wastewater is diverted from the Delta.

The Marine Patrol element identifies the City of West Sacramento's police patrol boat. This element then goes on to mandate ("shall") programs, equipment, meetings, and procedures which local governments must implement. In clearly identifying the West Sacramento

capability and changing the policy wording from "County" to "Local Government", the Commission staff appears to require West Sacramento participation. The mandatory wording "shall" as it relates to new requirements thus becomes a mandated cost. This wording is inconsistent with the DPC legislation in that patrol costs cannot be assigned to service charges, fees, or assessments. The DPC must either repay any jurisdiction for its costs to meet this mandate, make the policies voluntary ("should"), or seek a revised statute to reimburse these costs.

The Implementation element of the Plan is inadequate from both a legislative standpoint and a descriptive standpoint. Legislatively, no reimbursements are required since local governments may levy service charges, fees, or assessments to cover costs. However, there is no nexus under AB 1600 to cover the staff costs to review the Plan and then amend a General Plan to obtain compliance. The Commission needs to clearly state in this element what sources of funds they expect local jurisdictions to use to recoup these costs. The descriptive inadequacy is that the Plan does not include the legislative definition of the Primary Map, the accompanying map is not sufficient to detail the boundaries, and the Commission staff is unsure of the impacted jurisdictions. A day after receiving the draft Plan, West Sacramento received a letter from the Commission staff requesting in part a response as to whether any "portions of any other City are within the Primary Zone." If Commission staff and City staff are unable to establish jurisdiction then a dispute exists as to the enforcement ability of the Plan. Short of legal or legislative action, the Commission should establish which local agencies are located within the Primary Zone subject to the mandates of the plan. Where there is confusion as to the boundary, the Plan should state the uncertainty and establish by policy whether a portion of a local agency is or is not within the Primary Zone. This positive action would enable dialogue and discovery based on facts rather than uncertainty. For West Sacramento, the Plan should state that south of the Deep Water Ship Channel, the Primary Zone is coterminous with the City's western city limit.

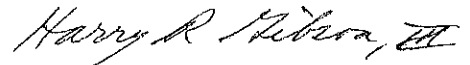
I am also concerned with the wording of the Environmental element as it relates to the Levee element. The environmental element fails to establish the habitat or traits of either the beaver, the muskrat, or other burrowing animals. Yet these burrows are clearly established as a possible (probable?) source of past levee failures. Both sections should provide factual support each other.

Lastly, the Levee element is inadequate in its description of the flood characteristics of the Delta. This inadequacy is caused by the familiarity of the writer with the Delta, not by a lack of knowledge. Unfortunately, the section fails to convey to a reader unfamiliar with the Delta the true variation of flow and water level between the flood flow and low water conditions. Without this information, it is difficult for even the summer boater to understand how the levees which tower over them in August can be endangered in winter. This may be remedied by either citing the conditions of the February 1986 storm or the modeled differences between the 100 year flood and the ordinary low water conditions. The need for this clarification is of importance to West Sacramento since we intend, in cooperation with the Corps of Engineers, to provide the greatest protection for our citizens. If all parties understand the importance of the levees and the different "faces" of the river, then the protection of our population is more clearly understood.

As a staff member familiar with legal and physical issues from the Coast through the Central Valley to Lake Tahoe, I consider the preceding points to be serious enough to warrant returning

the Plan to Staff before the Commission takes formal action on the Plan. Let me emphasize that the information provided to West Sacramento has internal inconsistencies, environmental impacts which are significant, inadequate information to make findings of fact, ambiguity as to jurisdictional enforcement, and imposes mandated costs contrary to the State law creating the Commission. Should your staff require any clarification on these issues, they may contact me at the Community Development Office.

Sincerely,

A handwritten signature in cursive script that reads "Harry R. Gibson, III".

Harry R. Gibson, III
Principal Planner

ABF FARM SERVICES, INC.

UNION ISLAND

Telephone Stockton (209) 462-0208
7761 W. Undine Road
STOCKTON, CALIFORNIA 95206

January 25, 1995

To: The Commission of the Delta Protection Act
From: William W. Salmon
Commissioner for the South Delta
Re: January 26 Meeting of the Commission

I am unable to attend the January 26th meeting of the Commission as I will be out of the country on personal business. I do however feel an obligation to the constituencies which I represent in the South Delta to send a statement of my position regarding the the Land use and Resource Management Plan for the Primary Zone of the delta.

Addressing the subject under the heading of Environment, page 13, p-3, the new language should read; New sewage treatment facilities (including storage ponds) and areas for disposal of sewage effluent and sewage sludge serving uses outside the Delta Primary Zone shall not be located within the Delta Primary Zone. This should also grandfather in the facilities of Rio Vista and the Ironhouse Sanitary District on Jersey Island.

My reasoning for this position is based on the following;

1. Impacts and costs of development should not be imposed on areas outside of the areas of planned development.
2. Disposal of waste-water and sewage sludge should be integrated into the development plan for the area to be developed.
3. Delta Protection Act- Primary Zone is intended to be maintained in agriculture.
4. The chance of flooding in areas in which pathogens, metals and salts may have accumulated could result in contamination of the delta and it's waterways. These waterways serve, in part, as the water supply for many municipalities.
5. The stigma attached at the retail level to crops being grown with the use of sewage sludge or waste-water, regardless if contamination has occurred, could hurt all of agriculture.

Sincerely,

William W. Salmon
Commissioner for South Delta

January 25, 1995



Ms. Margit Aramburu
Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690

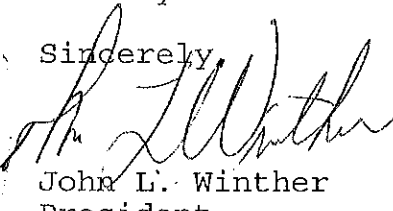
Dear Margit:

Re: Revised Draft Land Use and Resource Management Plan
for the Primary Zone of the Delta

There is language in the above-referenced document that appears to nearly prohibit the discharge of sewage effluent or treated solids onto Delta islands. In our view that language is not strong enough and we support the language presented by the Central Delta Water Agency. Keep in mind that islands in the Delta are in essence a part of the water supply. Water is constantly being moved on and off the islands and has been for years. Any practice that might introduce contaminants and jeopardize the Delta as a water supply could severely impact two-thirds of the population of our state and should clearly be avoided.

Thank you for considering this comment.

Sincerely,



John L. Winther
President

JLW:kf



PETE WILSON
GOVERNOR

State of California

GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

1400 TENTH STREET
SACRAMENTO 95814



LEE GRISSOM
DIRECTOR

916/445-4831

January 25, 1995

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
14219 River Road
P.O. Box 530
Walnut Grove, California 95690

Subject: Comments and Recommendations on the Revised Draft Land Use and Resource Management Plan for the Primary Zone of the Delta

Dear Ms. Aramburu:

In accordance with the requirements of the Delta Protection Act of 1992, particularly Public Resources Code Section 29761, I am hereby transmitting my comments and recommendations on the Draft Land Use and Resource Management Plan for the Primary Zone of the Delta. Please note that these comments are rendered in the spirit of constructive edification, and as such are not intended to be misconstrued as criticism. General comments on the draft plan will precede more specific comments on the draft.

GENERAL COMMENTS:

The Commission and staff are to be commended for amending scores of draft plan policies by replacing the word "should" with the word "shall." In doing so, the Commission recognizes that "shall" indicates an unequivocal directive that reflects a solid commitment to the given policies. On the other hand, the word "should" gives the false impression of more commitment than is actually intended. As we note in the General Plan Guidelines, it is better to adopt no policy than to adopt a policy with no backbone. Thus, by making these amendments, the Commission has shown commitment and exercised leadership.

This office recognizes that six State departments with legitimate delta planning concerns, including the State Lands Commission, are represented by membership on the Commission. This representation has afforded them continual input into the planning process from the beginning. Therefore, on the matter of review and comment by these entities, the Office of Planning and Research will defer to their individual subject area expertise. This deference applies to the following departments and statewide plan policies:

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
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- o Department of Parks and Recreation and its input as it relates to the California Outdoor Recreation Plan,
- o Department of Fish and Game and its input as it relates to Comprehensive Management, A Comprehensive System for Stewarding Wildlife Resources, Managing Change, and Serving the Public, and the
- o Department of Water Resources and its input as it relates to the California Water Plan Update.

We are unaware of any other statewide functional plans developed by the remaining State departments represented on the Commission.

SPECIFIC COMMENTS:

The following comment is directed solely to an issue within the draft plan, itself:

(1) Utilities and Infrastructure Policy P-3 on page 13--The policy as proposed for revision is very much in keeping with the following fundamental policies expressed in the California Environmental Quality Act:

- o The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.
- o There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state.
- o The capacity of the environment is limited, and it is the intent of the Legislature that the government of the State take immediate steps for the health and safety of the people of the State and take all coordinated actions necessary to prevent such thresholds from being reached. (Public Resources Code Section 21000(a), (c), and (d))

We would ordinarily be inclined to concur with the proposed amendments to Policy P-3, absent any contravening information that the release of biosolids onto agricultural delta soil represents sound disposal practice. However, there does appear to be some contravening information, given written testimony within the past two months. Therefore, we would recommend that the Commission pursue investigation of this issue and deliberation over the facts before instituting the policy. Nevertheless, even if the application of biosolids on Delta agricultural soil is determined

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
January 25, 1995
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to be harmless in the long run, the Commission may reserve the right to adhere to aesthetic principles and policies that need to be established and clearly delineated in the text of the draft plan. It is quite likely that such principles and policies have been established in applicable county general plans.

The following comments are directed to issues of conformity between the draft plan and various other relevant statewide functional plans or policies.

(2) Governor's Wetlands Policy (August 1993)--Exact conformity between the Delta plan draft and the wetlands policy is difficult to discern, despite the number of intersecting issues that both address. At least, there are no major conflicts. A few points of non-intersection or marginal intersection between the two documents create possibilities for future Commission policy consideration, specifically:

- o Wetlands Policy III-E: Enhance efficiency of and coordination in the wetland permitting process.
- o Wetlands Policy III-F: Encourage regulatory flexibility in situations in which wetlands are created unintentionally or incidental to other activities.
- o Wetlands Policy III-G: Encourage regulatory flexibility to allow public agencies and water districts to create wetlands but later remove them if the wetlands are found to conflict with the primary purpose to which the property is devoted.

The draft Delta plan is sensitive to wetlands policy objectives, as shown by its conformity with the following wetlands policy:

- o Wetlands Policy IV-B: Support other existing programs to voluntarily acquire, restore, enhance, and manage wetlands--The State will continue to support the voluntary acquisition, restoration, enhancement and management of wetlands through sufficiently funded State, Federal, local and private programs. The use of State funds will emphasize the restoration, enhancement, and management of existing State-owned wetlands.

(3) State Water Resources Control Board Plans: (a) California Inland Surface Waters Plan (May 1993), and (b) California Enclosed Bays and Estuaries Plan (May 1993)--Conformity with these two plans has become a moot issue, because the Water Resources Control Board rescinded both of them in September, 1994, and has commenced working on new plans.

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
January 25, 1995
Page Four

(4) State of California Flood Hazard Mitigation Plan (August 1986, Office of Emergency Services and Department of Water Resources)--As noted in the General Comments section of this letter, the Department of Water Resources, a co-author of this document, has the specific subject area expertise with which to identify possible inconsistencies. The Delta plan draft does not present any salient conflicts with the flood hazard mitigation programs and practices identified in this document.

(5) California Environmental Technology Partnership 1994 Strategic Plan for Promoting California's Environmental Technology Industry (January 1994, Cal EPA, Trade and Commerce Agency, and Environmental Technology Advisory Council)--To the extent that the plan's restrictive land use policies represent barriers to technology developers, there is probably some conflict. Nevertheless, in the plan's larger land use scheme, environmental technology industry can be accommodated in accordance with the plan's policy P-3, page 21, which provides for appropriate buffering between commercial or industrial uses and existing agricultural use to protect the land's integrity for future agricultural use.

(6) Department of Conservation: Conserving the Wealth of the Land: Plan for Soil Conservation--No obvious conflicts with this plan appear to exist.

(7) Integrated Waste Management Board: California State Plan for Integrated Waste Management--The plan was not prepared due to subsequent legislation that required preparation of an annual report, only, and not a plan, per se.

(8) Department of Transportation (Caltrans): Rail Passenger Development Plan, 1990-95 Fiscal Years (1990)--Proposed rail passenger lines do not cross the Primary Zone of the Delta. Therefore, no conflict exists.

(9) Department of Transportation (Caltrans): California Transportation Plan, Final Draft (March 1994)--Although this document is still a draft, many of its goals and policy statements are likely to be retained, since its enabling legislation requires treatment of several statewide issues, including environmental protection. The most relevant of these policies are those of Policy 3, which includes the following strategies, none of which presents any conflict:

Policy 3--Transportation decisions will protect the environment and promote energy efficiency while improving mobility:

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
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- o Protect sensitive habitat;
- o Improve water quality;
- o Conserve water;
- o Expand use of effective mitigation and enhancement techniques;
- o Enhance scenic corridors.

It is clear that a great deal of research, coordination, and public participation went into the preparation of this draft. The hard work behind a plan's preparation often goes unrecognized. So that I may not be remiss, please accept my congratulations on reaching this stage of the process.

If you have any questions about these comments or recommendations, please contact Robert Cervantes of the Planning Unit at 445-4831.

Sincerely,

A handwritten signature in cursive script that reads "Robert Cervantes" followed by a small flourish.

LEE GRISSOM
Director



Fairfield-Suisun Sewer District

January 26, 1995

Richard F. Luthy, Jr.
General Manager/District Engineer

Commissioners
Delta Protection Commission
c/o Margit Aramburu, Executive Director
14219 River Road
P.O. Box 530
Walnut Grove, CA 95690

Subject: Delta Protection Act Implementation: Biosolids and Recycled Water

Dear Commissioners:

The Fairfield-Suisun Sewer District provides wastewater treatment services for more than 100,000 residents of central Solano County. Our facilities have been successfully providing highly treated recycled water for agricultural irrigation and enhancement of the Suisun Marsh since 1976.

We have recently been advised that the Delta Protection Commission is preparing regulations which would prohibit or severely restrict the agricultural utilization of recycled wastewater and/or biosolids in the Primary Zone. We also understand that there is no staff technical analysis to support inclusion of such restrictions in the plan.

Our purpose in writing is to encourage the commission to delete provisions of the proposed plan which restrict agricultural use of recycled water and biosolids. The following points should be considered:

- Agricultural use of biosolids and recycled water have been proven through many years of practice to be beneficial to both agriculture and the environment.
- These commodities are already heavily regulated at the federal, state and local levels. An additional level of restriction is simply unnecessary.
- This proposed ban has not been subjected to technical analysis and does not have a sound basis for adoption.

• Address:
1010 Chadbourne Rd.
Fairfield, CA 94585
• Telephone:
(707) 429-8930
Fax (707) 429-1280

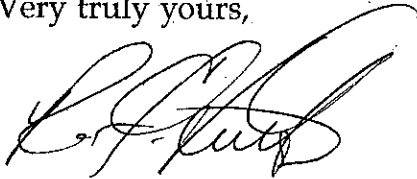


January 25, 1995
Delta Protection Commission
Page Two

Implementation of a ban on importation of recycled water and/or biosolids could have significant long-term impacts on California's ability to meet its recycling goals, and would create an additional layer of unnecessary regulation for local wastewater treatment facilities.

Thank you for considering our request.

Very truly yours,



Richard F. Luthy, Jr.
General Manager/District Engineer

/vjl

To: Delta Protection Commission
14219 River Road
Walnut Grove, CA 95690

Jan, 26, 1995

From: Rogene Reynolds
4444 W. Undine Road
Stockton, CA 9206
5

RE: Delta Protection Commission Act Implementation
Biosolids and Recycled Water

Members of the Commission:

I am a resident and 4th generation land owner on Roberts Island, located in the Primary Zone as designated by this Commission.

I have been involved in the issue of wastewater treatment and disposal on Delta lands for several months. I was active in the opposition to the projects proposed by the City of Lathrop and the New Town of Mountain House.

I have testified before this commission more than once, urging you to create a strong policy to ban from the Primary Zone, all treatment facilities and the disposal of sewage sludge and sewage effluent, which serve uses from outside this zone. Your charge as a commission is to protect and enhance the Delta for agriculture, wildlife and recreation. Whatever you do must also protect the water supply for much of the State of California.

My presentation is to bring to your attention some serious inconsistencies and errors of fact in the position paper you have received from the entity called "Tri-Tac" which favors no ban on such use of Delta farmland for sewage disposal.

First of all, Tri-Tac may be a "non-profit organization" , but it is funded by members of the waste treatment industry and is a public relations organization whose purpose is to benefit the waste treatment industry, and cities. It's purpose is no different than that of any other lobbying group - to influence legislation for a narrow special interest.

Fact: Tri-Tac is the arm of municipalities who want to keep the regulation and cost of waste disposal to a minimum - regardless of harm done to anyone else.

I urge you to look carefully into every single allegation in this position paper, and ask yourselves at every point made - "WHERE IS THE SCIENCE?" to support these claims of safety. "WHERE IS THE PROOF?" that existing regulations

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are sufficient and being enforced now - let alone in the future.

You will find that this is a very good "public relations" paper, but unfortunately, a very poor resource to you of unbiased facts. Tri-Tac's summary (page 3) makes five broad and unsubstantiated statements. I would like to raise some questions about their summary.

The broad statement that "Biosolids and recycled water use are environmentally sound and beneficial practices which are already heavily regulated at the federal, state and local level." is not true and cannot be substantiated.

Fact: "Biosolids" and "sludge" are not the same product. "Recycled water" comes in many forms. The "use" of these products in their many forms is the "disposal" of waste. All such disposal has not been proven "beneficial". And it is not "heavily regulated".

For example: This paper does not cite pending litigation in the State of Colorado (Tucker vs Anheuser Busch). In this case, it is alleged that cattle fed alfalfa hay grown with brewery effluent have been sickened. This case has not been settled - but Anheuser did not feed this hay to its own famous Clydesdales. The case is still pending.

For example: This paper does not cite the the Torres/Martinez Indian Reservation (Arizona) problem where 500,000 tons of sludge from Colorado and Ohio, containing toxic levels of heavy metals, arsenic chromium and nitrates, have been dumped onto the land. No enforcement agency will accept responsibility or intervene! The Bureau of Indian affairs says, call the State Water Resources Control Board. SWRCB says call the Environmental Protection Agency. EPA says call the SWRCB. The County Board of Supervisors called the District Attorney. Citizens blockaded the road! The case is still pending.

For example: This paper does not cite the lawsuit by Miller Brewing Company against the Upper San Gabriel Valley Municipal Water District. The brewery is protesting the spreading of disinfected water on land, which water will percolate through the ground. The purpose is to recharge the the District's aquifer. The result, feared by Miller, is that the ground water basin will become polluted. The case is still pending.

For example: The Environmental Protection Agency has set standards, but has only one person, named Loren Forndahl, to oversee sludge use in ALL of California, Arizona, Nevada, Hawaii, Guam and the Pacific. This is a "self-policing" business! Tri-Tac wants you, and the public, to agree that this is "careful" regulation.

TRI-tac Pg 2 of 5

Fact: State Water Resources Control Board has NOT sought delegation from the Federal Government to oversee sludge. There is virtually no STATE oversight! Localities must create their own regulations and ordinances. Fact: Stanislaus County has just completed its Sludge Control Ordinance after a YEAR of study and debate (including strong opposition to the ordinance from the sludge industry).

Fact: Given the current trend in Federal Government to reduce size and scope of Federal oversight, we can look less and less to agencies like the EPA to issue guidelines and enforce them. The trend will be to let the States assume the responsibility.

Fact: There are instances of industry abuse right here in the Delta already. The City of Stockton recently had a huge "accidental" release of untreated effluent which caused a huge fish kill in the San Joaquin River. The city was fined, but the fish were still dead. Entities like Tri-Tac ignore the risks of mismanagement which might permanently damage the Delta land or waters.

The point I am trying to make is that when the broad statement is made in Tri-Tac's paper that this industry is "heavily regulated", the statement is not true. All we really have is a "Paper chase" with no one accepting final accountability.

Fact: The "science" proving Tri-Tac's claim of safety is inexact and subject to question, even among scientists. What recent scientific consensus is cited in this paper?

The proof of this is the question of LIABILITY for damage to the soil. As a Real Estate salesperson, I am required to disclose the use of human waste to amend the soil of any land I sell. Fact: Farmers' liability insurance policies do not include protection from claims resulting from toxic disposal.

If this industry is so highly regulated, and if the sludge and effluent is environmentally sound, WHY ARE DISCLOSURE AND LIABILITY such huge problems for landowners?

Tri-Tac and the industry will say that these problems arise because of public perception and misunderstood science. My belief is that the science is not "misunderstood", but that it is unreliable and inexact, and that is why the public cannot be convinced that sludge and effluent in the food chain is safe. THE PUBLIC JURY IS STILL OUT.

For example, the paper notes that the City of Lathrop and Mountain House projects were removed from consideration. The paper does not state why - but the reason is clear. The proponents did not have enough proof that such Delta projects

TRI-tac Pg 3 of 5

would clear Environmental Impact challenges.

As a reason for you to eliminate your ban on sewage treatment and waste in the Delta, Tri-Tac states that "agencies developing recycling programs would likely be forced to explain why a ban was implemented in the Delta, but is not necessary elsewhere". The waste treatment industry should have no problem explaining your ban. The reason for the ban is simple: The Delta is not the appropriate place for such disposal.

Tri-Tac shows a lack of understanding of the Delta, and its co-mingled drain systems, its high water tables, its high organic content of the soil. Not to mention the fact that 2/3 of the state of California gets its drinking water from this Delta. The Delta is unique! The creation of this commission points to the uniqueness! The industry would only have to make that point - that disposal in this Delta is inappropriate.

There are other, more appropriate ways and locations to treat and dispose of this waste. The question is one of costs - and Tri-Tac backers don't want to pay to keep their waste in the area or origin, because it will cost more.

One last point I would like to bring to your attention involves the economics of agriculture.

In "Some Final Thoughts" (page 11) the Tri-Tac paper states that a prime objective of the Delta Protection Act is to preserve agricultural use and prevent land use changes which would displace agriculture. You must remember that agriculture is a business. The marketability of our crops determines our success. The unmarketability of our crops will be our financial ruin.

Fact: A consumer or processor, if given a choice of what food to use, will pay a lower price for a product known to have been grown with water or soil amended with human waste. To put this waste onto Delta lands will devalue our crops -thus devalue our lands. Devaluing our lands equates to land use changes displacing profitable agriculture. (And agriculture was a one billion dollar industry in San Joaquin County this last year.)

So what are landowners left with? This Delta Protection Commission is banning future housing developments in the Primary Zone, so a farmer will not have the option to grow houses instead of food which is not competitive in the open market.

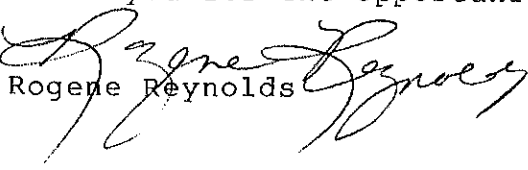
In closing I'd like to point out the greatest flaw in this public relations position paper. IT DOES NOT SPECIFICALLY ADDRESS THE PROBLEMS WHICH WILL RESULT FROM USING THE DELTA

AS A DISPOSAL SITE. This paper does not address the economic impact to farms and the marketability of our crops. It does not address the true difficulties waste disposal into an area which is a common water pool for much of this State. It does not PROVE that this disposal is the highest and best use of Delta land. It does not prove that disposal into this Delta can be claimed completely safe.

(Note: Because of the realities of life, and the need to make this Delta Protection Plan work for all of us who are affected, I am forced to concede that your draft plan may have to allow the Rio Vista Project and the Ironhouse Sanitary District Jersey Island Project to proceed as planned. The City of Stockton must continue to use its existing facility.)

We have a unique area - designated unique by the very creation of this Commission. You are not charged with determining the suitability of sewage and effluent disposal anywhere else in the United States. Your charge is the "protection" of THIS Delta - that is the very name of this Commission.

If you have any questions, I'll be happy to answer them. Thank you for the opportunity to come before you tonight.


Rogene Reynolds

(209) 464-8054 (eve)
478-8121 (day)

- PLANNING
- 1) The impacts and costs of development should not be imposed on areas outside the areas planned for development.
 - 2) Disposal of wastewater (recycled water) and sewage sludge (biosolids) should be integrated into the development plan for the area to be developed.
 - 3) Delta Protection Act - Primary Zone is intended to be maintained in agriculture.
 - 4) Application of sewage sludge or wastewater to agricultural land is detrimental.
- SALINITY
- 1) Wastewater proposed for disposal in the Primary Zone of the Delta is too salty for economically viable agricultural use.
 - 2) Wastewater quality is not comparable to available in-channel supplies and would result in a substantial degradation of irrigation water quality.
 - 3) The salinity of the drainage water and groundwater would be substantially increased.
 - 4) Management of soil salinity would require increased leaching, thereby requiring increased water application, drainage and land leveling.
 - 5) The cost of increased leaching of Delta soils would destroy the economic viability of Delta agriculture.

METALS

- 1) Metal concentrations in sewage sludge and wastewater will vary depending upon the source.

- 2) Much of the metal content will accumulate in the soil.
- 3) Metals such as cadmium will be taken up by the crops and enter the food chain.
- 4) Some metals will end up in the groundwater and in the drainage water.

NITRATES

- 1) Application of recycled water at high rates could result in a buildup of nitrates in the groundwater and drainage waters.
- 2) Percolation of irrigation water, rain water and other flows through sewage sludge could also result in excessive nitrates in the groundwater and drainage waters.

CLASSIFICATION OF

DRAINAGE

- 1) Typical agricultural return flows are treated as nonpoint source discharges and currently are not subject to waste discharge standards.

- 2) Nontypical operations which use sewage sludge and/or wastewater are likely to be regulated in the future more like municipal discharges.

- 3) Agriculture cannot sustain the burden of such discharge regulation.

PUBLIC PERCEPTION OF HEALTH RISK

- 1) Regardless of whether or not any contamination of the crops or soils results from the use of sewage sludge or wastewater, the marketing of crops could be adversely affected.
- 2) The perception of possible increased risk to human health could result in an inability to market the crops.
- 3) The marketability of the land could also be adversely affected.
- 4) Adding sewage sludge or wastewater to Delta lands will fuel the concerns of those exporting water from the Delta that agricultural drainage should be restricted.

LIABILITY FOR
CONTAMINATION
AND CLEANUP

- 1) Landowners upon whose land the metals are concentrated will forever remain exposed to liability for the costs of cleanup of their land, the groundwater and that of adversely impacted adjoining lands and waters.
- 2) All of those involved in the use of the sewage sludge and wastewater will be exposed to liability for resulting damage to human health, property and the environment.

DISCLOSURE
RESPONSIBILITY

Will landowners be required to disclose the use of recycled water or sewage sludge when selling their property?

IMPACT ON
LENDERS

Will lenders continue to make loans on property subjected to the risk of contamination from recycled water and sewage sludge.

RISK OF
FLOODING

- 1) The lands within the Delta Primary Zone are subject to flooding.
- 2) The flooding of areas in which pathogens and metals are accumulated or located could result in contamination of the Delta waters which in part serve as the water supply for many Californians.

LACK OF CREDIBLE
REGULATION

- 1) The EPA "503" regulation on sludge contains a substantial loophole which allows unlimited metal accumulation for sewage sludge with relatively low initial metal concentrations.
- 2) EPA has no staff assigned to enforcement.
- 3) The Central Valley Regional Water Quality Control Board considered action to eliminate their regulation of sludge disposal. Their continued regulation appears to lack staff support.
- 4) The advocacy position for disposal in the Delta by the staff of EPA and the Central Valley Regional Water Quality Control Board reflects a conflict of interest.
- 5) The inter-relationship of the wastewater dischargers and both the EPA and Regional Water Quality Control Board must be explained.

WATER QUALITIES AT SAN ANDREAS LANDING

1964 DRY

62% Average 1920-70

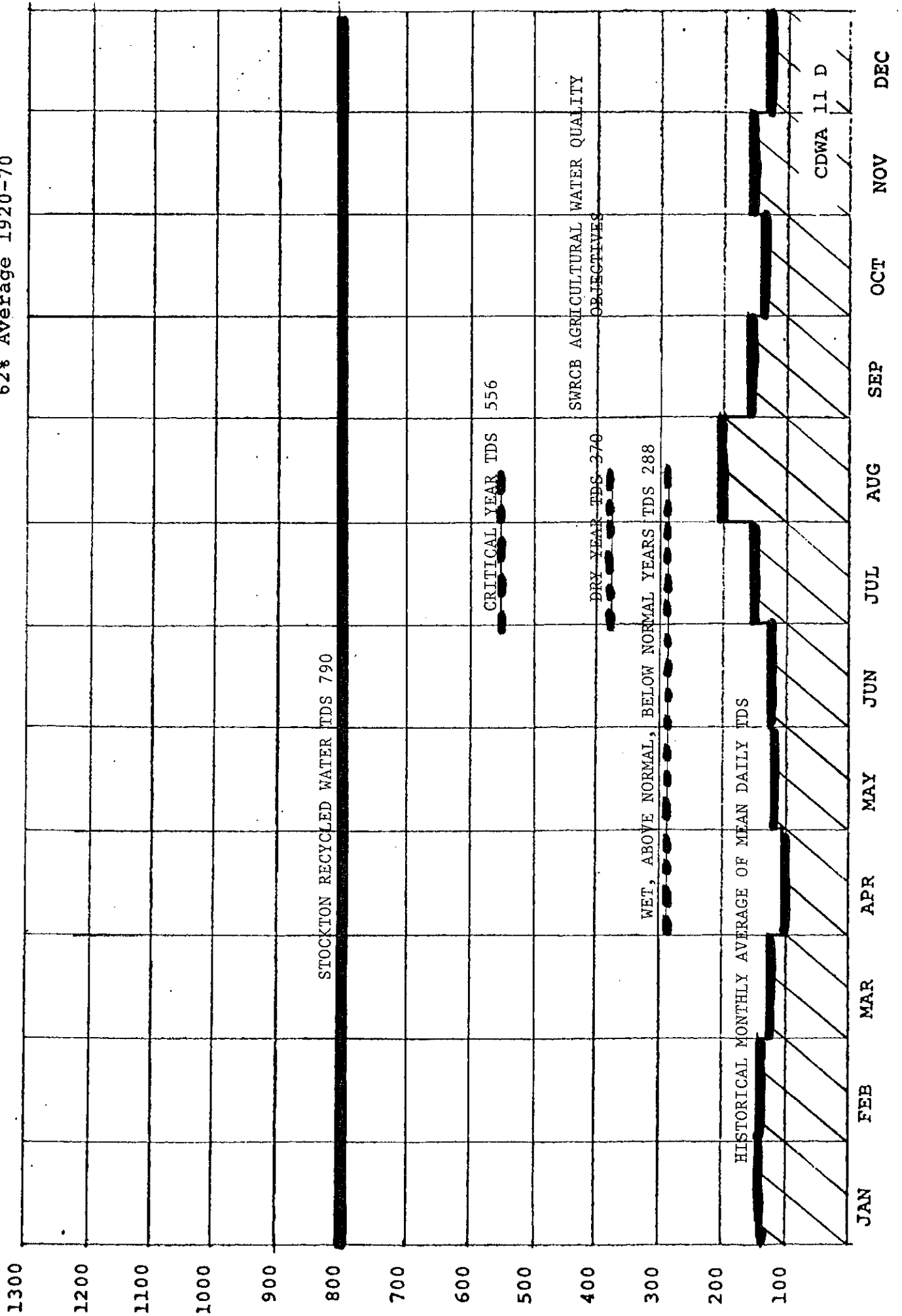


EXHIBIT A

1/26/95

CONDITIONS TO THE 1994 TOMATO TONNAGE CONTRACT

1. The Company's processing season shall begin about July 1 or soon thereafter as sufficient tomatoes produced by Company growers have ripened to permit practicable processing operations. Grower shall arrange, on the day previous to each day on which desires to make a delivery and before the tomatoes to be delivered are harvested, a definite time for delivery of each load, which shall be agreeable to both Grower and the Company.
2. Tomatoes shall be delivered to the Company only on weekdays. The Company, however, reserves the option to accept delivery on Saturday, Sunday or holidays. Should the Company elect to receive deliveries on days other than weekdays, deliveries shall be accepted only under the following condition: (i) Company shall notify Grower as soon as possible if it intends to accept delivery on days other than weekdays, (ii) the total tonnage received by the Company on days other than weekdays during each week period of the Weekly Delivery Schedule shall not increase Grower's Weekly Tons or Total Tons specified on said Weekly Delivery Schedule, and (iii) Grower shall deliver to the Company tomatoes in excess of its Total Tons only in amounts as specifically approved by the Company until notified otherwise. (Any tomatoes that remain after the Company gives to Grower its final notice authorizing final delivery shall be the exclusive property of the Grower.)
3. Grower shall only deliver to Company tomatoes properly sorted when harvested and conforming to the conditions herein specified. The Company may reject any tomatoes where the presence of stems, dirt and dirt smears, pesticide or other chemical residue, rot, and/or insect or vertebrate pest contamination is so prevalent that washing, sorting and/or trimming does not make practicable manufacture of a product which meets Federal and/or State processed food requirements or the Company's high quality standards. In addition, the Company may reject any load of tomatoes in which (a) greater than 1%, by weight of the tomatoes are affected by damage; or (b) greater than 5%, by weight, of the tomatoes are affected by mold (Company may reduce this rejection standard to 5% if necessary to enable Company to manufacture an acceptable product); or (c) greater than 4%, by weight, of the shipment consists of green tomatoes; or (d) greater than 3%, by weight, of the shipment contains material other than tomatoes; or (e) the Agtron reading for color exceeds the level established by the State of California Department of Food and Agriculture.

THE POLICY FOR REJECTED LOADS IS AS FOLLOWS:

(A) Tomatoes rejected by the California Inspection Service (and all Company cannery rejects) due to contamination by mold (10% maximum), by worms, by green or by M.O.T. (Materials Other Than Tomatoes) shall immediately be dispatched to the reconditioning station(s) designated by Heinz, to be reconditioned, depending on severity of defect level and space available. Cost of reconditioning is as follows:

Worm, Mold, Green	\$400.00
M.O.T.	350.00

Company shall deduct all reconditioning charges from the Grower's crop proceeds. Freight charges to and from the reconditioning station on reconditioned tomatoes will be the obligation of the Company.

(B) The freight rate on any rejected load that is returned to the Grower's field of origin to be dumped will be the responsibility of the Grower. A full freight rate to the grading station and a one-half rate back to the field will apply.

(C) On any load that is dumped at the grading station, a full freight rate from the Grower's field to the station and any dumping charges will be the responsibility of the Grower.

(D) If the rejected load is sent to another destination other than reconditioning station(s) designated by Heinz, the freight rate from the field and from the grading station will be the responsibility of the Grower. The full rate will apply to the incoming load so rejected.

(E) The freight rates on B, C, and D, above will be the responsibility of the Grower.

(F) Grower hereby authorizes the Company to (i) deduct from the proceeds due Grower hereunder amounts due Carrier for damages to Carrier's equipment, overload charges, return to field costs, etc., and (ii) forward such amounts, which are supported by documentation acceptable to the Company, to Carrier.

4. Company shall be under no obligation to pay for tomatoes rejected as provided above, or which are otherwise unsuitable for processing as determined by an authorized State of California, Department of Food and Agriculture Inspector. The Company may retain such rejected tomatoes, or tomatoes damaged or contaminated by mold, rot, or worms or insects, or vertebrate pest; or tomatoes exceeding the tolerance allowed for color and other quality conditions in effect, in which event Company shall pay One Dollar (\$1.00) per ton for them and Grower acknowledges that One Dollar (\$1.00) per ton is fair value and hereby accepts the same. However, Company does not want such tomatoes and the Grower shall make every effort to keep them out of each load.

5. Any Heinz varieties that are delivered to other processors without written authorization from Company will cause this Agreement to become terminable at Company's option.

6. The rejection of any load shall apply only to the load so rejected and shall not in any way affect the obligation of the Grower to deliver the remainder of the crop grown under the Agreement to which this Exhibit is attached. The acceptance by the Company of any tomatoes not conforming to the specifications herein, or the waiver of any other default, shall not be construed as a waiver by Company of any subsequent default.

7. Company shall have the right to cancel this Agreement at any time during the season at or subsequent to the time it appears from information received and which it believes reliable, that the Grower, prior to the fulfillment of all of the covenants on his part hereinafter contained, has contracted to sell or has sold to any other person or persons any tomatoes grown on acreage herein designated for delivery under this Agreement upon ten (10) day's prior written notice to Grower.

8. The Agreement, to which this Exhibit is attached, constitutes an absolute sale and vests title to growing crop and grown crop tomatoes in the Company, but, until delivery has been completed, Grower assumes and retains all risk of loss or damage to undelivered tomatoes.

9. Company shall have no control over nor responsibility for the labor relations, problems or practices of the Grower, and Grower shall have no control over nor responsibility for the labor relations, policies or practices of the Company.

10. Either party to this Contract shall be free from liability for failure to perform if such failure is due to inability to harvest, deliver, handle, manufacture or process tomatoes, and such inability is caused by Acts of God, fire, strikes, sympathetic strikes, pickets, boycotts or other labor troubles, accidents to machinery, inability to procure labor, or necessary supplies from usual sources, or restrictions of operation by reason of federal or state legislation or any regulations adopted pursuant thereto, or any other cause beyond the reasonable control of the affected party. In the event that Grower is unable to perform for such reason beyond its reasonable control, Company shall have the right to either extend the delivery date until Grower is able to perform or terminate this Agreement.

11. Grower hereby warrants and certifies that any and all tomatoes delivered hereunder have been or will be produced in compliance with all applicable requirements of Section 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and all regulations and orders of the United States Department of Labor issued under Section 14 thereof, and agrees that at the close of the season prior to final payment, Grower shall provide such a certificate to the Company.

12. Grower shall carry and maintain workmen's compensation insurance in the amount of the state's statutory limits where the tomatoes covered by this Agreement shall be grown and Grower shall require all contractors and subcontractors performing work on the land and/or crops covered by this Agreement to carry similar workmen's compensation insurance. Prior to commencement of the planting of any crop for delivery hereunder, Grower shall furnish Company a certificate evidencing such coverage, which certificate shall stipulate that not less than (10) days notice will be given Company prior to termination or reduction of the limits or coverage.

13. Grower hereby warrants and certifies that any and all tomatoes delivered hereunder have been planted and grown on land that has not had industrial and/or municipal waste and/or sludge applied thereto within the last 5 years.

14. Grower hereby warrants and certifies that all pesticides or other materials used shall comply strictly with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, and all other applicable Federal and State laws and regulations, including but not limited to labeling and registration requirements, and upon request by Company, shall furnish satisfactory proof of same.

15. Grower also warrants that tomatoes, when delivered to Company, shall contain no pesticide or other residue which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug and Cosmetic Act and the California Safe Drinking Water and Toxic Enforcement Act of 1986, hereinafter referred to as "Proposition 65."

16. Grower shall be fully and solely responsible for the proper use of all pesticides and shall, and hereby does, indemnify and hold harmless Company from any and all damages, penalties and consequences from the use of pesticides by Grower and any employee, agent or contractor of Grower. Grower shall not be obligated under this paragraph to hold Company harmless from any claim arising from the sale of Company's finished product.

17. Company reserves the right, but no obligation and/or duty, to restrict or prohibit the use of certain agricultural chemicals. Grower in such instance shall comply strictly with such restrictions as set forth in the Heinz U.S.A.'s Crop Protection Information Manual for that Season.

18. Grower hereby certifies and warrants to the Company that all tomatoes delivered hereunder comply with the Proposition 65 does not contain any substances known to the State of California to cause cancer or reproductive toxicity.

19. Grower shall be liable for any injury, loss or damage of any kind or nature whatsoever resulting or occurring to (i) any personal property during the performance of this Agreement, and (ii) any equipment, trailers or machinery furnished by Company to Grower while the same are within the control of Grower. During performance of this Agreement, Grower shall carry and maintain automobile, bodily injury and property damage and contractual liability insurance, with coverage, and in a form satisfactory to Company.

20. Grower shall defend, indemnify and hold Company harmless from any and all claims or actions of whatever nature arising from any breach or violation of any of the terms, conditions, requirements and warranties set forth in this Exhibit A, and the Agreement which this is an attachment.

21. If any term or condition of this Agreement shall, to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and condition shall be valid and enforced to the fullest extent permitted by law.

22. TIME IS OF THE ESSENCE OF THE AGREEMENT TO WHICH THIS EXHIBIT IS ATTACHED.

San Joaquin Valley Flowers Association

FAX NO.
(209) 835-0719

MAIN OFFICE: P.O. BOX 1127
TRACY, CALIFORNIA 95378-1127
(209) 835-1662

STOCKTON
(209) 948-2484

BRANCH OFFICES:
WESTLEY
LOS BANOS
PETALUMA
WOODLAND
COURTLAND

MEMBERS:
AGRICULTURAL
COUNCIL OF
CALIFORNIA
CALIF. GRAIN & FEED
ASSOCIATION
THE NATIONAL HAY
ASSOCIATION

January 23, 1995

County of San Joaquin
BOARD OF SUPERVISORS
222 East Weber Avenue, #701
Stockton, CA 95202

Dear Gentlemen:

At a regular meeting of the Board of Directors a resolution was passed stating our opposition to the use of sewage effluent to irrigate or treat alfalfa fields.

After a lengthy discussion the Board issued concerns regarding the potential contamination of milk and other food products from feeding dairy animals. The bulk of the Associations sales (over 80%) are marketed to the dairy industry.

Sincerely,



Rick Staas
Assistant Manager

aw

**JACOBS MALCOLM & BURTT**

FRESH FRUITS & VEGETABLES

P.O. BOX 2187, SAN FRANCISCO, CA 94126 • (415) 285-0400

FAX (415) 285-2056

TO BERT BACCHETTI FARMS:

We are aware of various proposals being discussed in the San Joaquin Valley regarding the suggested use of sewage effluents and sludges for crop irrigation and fertilization.

Please be advised that this firm will not purchase, receive, or use any vegetable products intended for human consumption that have been grown on land that has been, will be, or is currently being irrigated or treated with sewage plant effluents.

Further, should we unknowingly purchase any product so produced with sewage effluents and later determine that the product had been produced in that environment, our contract with the grower shall become null and void, and the grower shall be held responsible for any and all damages and costs, including legal fees, so caused by use of the tainted product.

We trust that you will understand and respect the position we have taken regarding this matter.

Please call if you have questions or need clarification. Your cooperation is appreciated.


LEO ROLANDELLI

TITLE: President



**CONTRA COSTA
WATER DISTRICT**

1331 Concord Avenue
P.O. Box H20
Concord, CA 94524
(510) 674-8000 FAX (510) 674-8122

January 26, 1995

Directors

Joseph L. Campbell
President

Elizabeth R. Anello
Vice President

Bette Boatman
Donald P. Freitas
James Pretti

Walter J. Bishop
General Manager

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
14219 River Road
P.O. Box 530
Walnut Grove, CA 95690

**Subject: Comment on Revised Draft Land Use and Resource Management Plan
for the Primary Zone of the Delta**

Dear Ms. Aramburu:

Thank you for the opportunity to comment on the Revised Draft Delta Land Use and Resource Management Plan. The Contra Costa Water District (CCWD) has several recommendations for additional wording to protect the quality of water used for municipal supplies within the San Joaquin Delta from potential impacts of existing and increased recreational development.

The following additional wording is recommended to the Recreation and Access Element Policies P-3 (page 39) and P-8 (page 40). The policy wording is stated (including underlined wording) with the recommended additional wording shown in **bold type**:

P-3. Local governments shall develop siting criteria which will ensure minimal adverse impacts on: agricultural land uses, levees, identified sensitive wetland and habitat areas **and no adverse impacts** around public drinking water supply intakes. **To provide for adequate dilution of any potential discharges, new marinas or marina expansions should not be permitted within 1.5 kilometers (0.9 miles) of any drinking water intake located in an open waterway, nor within any waterway or dead-end slough that terminates in a drinking water intake.** New projects shall be located on sites which are easily accessible from existing public roadways.

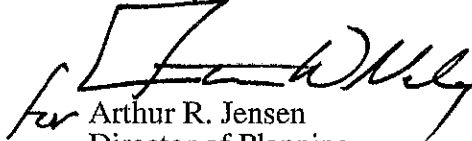
P-8. New, renovated, or expanded marinas shall include adequate restrooms, pump out facilities, trash containers, oily waste disposal facilities, and other facilities necessary to meet needs of marina tenants. These facilities shall be provided free or a low cost to offset costs of maintenance. **Any activities that result in toxic discharges (including paint, paint chips, chemicals, heavy metals, tributyltin, oil, grease and fuel) or discharges of untreated sewage shall be prohibited; all marine recreation facilities shall maintain notices on these prohibitions.**

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
January 26, 1995
Page 2

Your consideration and recommendation of the additional wording changes to the Revised Draft Land Use and Resource Management Plan for the Primary Zone of Delta would be appreciated.

If you have any questions, please call Dennis Pisila, Senior Planner (510/674-8119).

Sincerely,


for Arthur R. Jensen
Director of Planning

DP/rlr

cc: Frank Michny, Supervisory Environmental Specialist, U.S. Bureau of Reclamation,
Regional Office, Sacramento
Buddy Smith, T.O. 440 Supervisor, U.S. Bureau of Reclamation, Tracy Field Office

Comments by Alex Hildebrand, January 26, 1995, on the
Delta Protection Commission's Draft Land Use and Resource
Management Plan for the Primary Zone of the Delta

My name is Alex Hildebrand. I am here to comment on the revised Land Use and Resources Management Plan for the Primary Zone of the Delta. My comments are made in my capacities as President of the Delta Water Users Association, and director of the South Delta Water Agency, and President of Reclamation District 2075, and as a Delta farmer. I am also a director of the San Joaquin County Farm Bureau.

We appreciate the efforts of this Commission and concur in most of the draft plan. It represents a lot of thought on a complex issue.

However, we support the comments recently submitted by the California Farm Bureau Federation (CFBF). The most important of their comments relate to two provisions in the Johnston Act which do not appear in the Plan. The Act specifically provides that nothing in this plan shall deny the right of a landowner to continue the agricultural use of the land. The Act also provides that recommendations contained in the Plan shall not be achieved through the exercise of the power of eminent domain unless requested by the landowner. These provisions were among those that were essential to our support of passage of the Act.

Another important CFBF comment was that the Commission should not insert itself into the public trust boundary disputes between the State Lands Commission and the private landowners. The State should not encourage and finance the Land Commission in an escalation of this adversarial issue. The legislature last year passed a statute to provide more equity in the handling of these disputes. A further statute may be needed. The Commission should leave this issue to the parties and the legislature.

We also specifically endorse CFBF's proposed revision stating that "Delta levee maintenance and rehabilitation shall be given priority over other uses of the levee areas". It should be emphasized that if levees are allowed to fail, the Delta's land and channel configuration may be lost and the central Delta may thereby be converted to an inland sea. This would be a catastrophe not just for agriculture, but for aquatic habitat, recreation, waterfowl habitat, transportation, etc.

Lastly we wish to comment on the issue of disposal in the primary zone of sewage originating outside the primary zone. This subject is being more extensively covered by other agricultural parties. I will not reiterate what they have to say, but wish to emphasize the problem of salinity. Salinity in many of the Delta's channel reaches is already far above historical levels due to decreased Delta inflow and outflow, and to the substantially increased salinity of the San Joaquin River inflow resulting from westside drainage, and from increased urban sewage discharges. The

salinity of urban sewage is typically too high for irrigation of many crops without yield reduction. This is particularly true with the Delta's sub-irrigation needs and high water tables. This salt load is not removed by any sewage treatment short of reverse-osmosis. Sewage treatment facilities and sludge disposal in the primary zone are clearly unacceptable. The use of treated sewage water for irrigation in the primary zone should only be permitted if (a) the salinity is no higher than the water in adjacent channels, and (b) all health hazards can be resolved, and (c) there is a clear acceptance of the risk that public perceptions may make it difficult to sell crops for full value, and (d) it is not used as an excuse to demand an isolated water transfer system across the Delta for exported water.

Thank you for your consideration of these comments.

Alex Hildebrand
23443 S. Hays Road
Manteca, CA 95337

cc Delta Water Users
 South Delta Water Agency
 San Joaquin County Farm Bureau

DELTA PROTECTION COMMISSION

January 26, 1995

Delta Protection Act Implementation: Biosolids & Recycled Water

COMMENTS ON TRI-TAC ISSUE PAPER DATED DECEMBER 20, 1994

Jane E. Beswick, Coordinator

Coalition for Sludge Education

12801 W. Bradbury Road, Turlock, CA 95380

I. COALITION FOR SLUDGE EDUCATION

The Coalition for Sludge Education was formed in April of 1993. It is a group of farmers and residents of Stanislaus County working together to educate farmers, farm organizations and the general public of the possible negative implications of spreading sludge on farmland.

The U.S. Environmental Protection Agency, municipal water treatment plants and industry organizations, such as the Water Environment Federation and Tri-TAC, have full time personnel--even the Chief of U.S. EPA's Risk Assessment Branch--dedicated to speaking on behalf of the benefits of using sludge, promoting it to farmers and lobbying regulatory agencies to facilitate the disposal of sewer sludge. However, these groups have not disclosed the potential down side of using sludge.

I recently attended a Planning Commission meeting for the City of Modesto concerning a Co-composting proposal. One lady, a neighbor of the proposed composting site, came to object to the amount of traffic which would have to negotiate an "S" curve on Jennings Road. She was shocked to find that "biosolids" was sewer sludge. In fact, enhancing the image of sludge is why its name has been changed to "biosolids" according to an article by Gene Lodgson in BioCycle magazine (5/92), a trade journal.

The Coalition is convinced it is necessary to inform farmers who are willing to help recycle society's waste that they alone will be bearing all the costs in the event of contamination of crops, soil or water. In other words all liability will be transferred to them alone. Additionally, a public perception problem could occur when society learns that modern day "biosolids" is just old-fashioned sewer sludge.

So, there are three major areas of concern for farmers:

1. Inadequate health research.
2. Transfer of Liability
3. Possible public perception of an unsafe food supply.

II. SPECIFIC ITEMS IN THE TRI-TAC PAPER WHICH ARE NOT ACCURATE

- A. "Biosolids . . . are already heavily regulated at the federal, state and local levels."
(Page 1, Item 3, Tri-TAC)
- Exhibits
A to F*

1) FEDERAL REGULATION

U.S. EPA's 503 regulations are an unfunded mandate.

The regulations are thick, and assertions from the sludge industry that sludge is safe are unending, but regulations and promises don't assure compliance.

Clear lines of accountability along with independent third party monitoring at the local level are ways to help insure compliance. However, that is not the case with sludge.

Sludge management plans can look fine on paper but a well-written plan is no guarantee it will be complied with or that it will work out well in the field even if it is followed.

- a.) An instance in Columbiana County, Ohio is a example.

The plan was followed but the result was fish died and the project was stopped.

- b. City of Modesto's plan called for a maximum loading rate of 12 T for corn and 1 T for oats but applied 25.5 Tons.

- c. New York Sludge delivered to Bowie, Arizona.

If it met the required pathogen levels at the plant, it exceeded fecal coliform limits by up to 33.5 times the federal limit when it was tested in Arizona.

Ex 1
1+2

The first load on April 5, 1994 contained petroleum hydrocarbons at 14 to 22 times the state cleanup level for tainted soil.

2) STATE

In a February 24, 1994 letter, California EPA Secretary, James Strock, informed Felicia Marcus, U.S. EPA Region IX, that California EPA has elected not to seek the right to administer the sewage sludge application rules.

An article in the California Environmental Insider (2/28/94) stated, ". . . this is the first time we at CEI remember a specific decision not to seek delegation." The reason--no money was provided to cover the cost of enforcement.

3) LOCAL

Unless an ordinance regulating sludge is in place, it is doubtful there will be local oversight.

- B. "RWQCBs will assure that biosolids and recycled water do not impair the beneficial use of water resources."

The Regional Water Control Boards have not sought delegation from U.S. EPA to administer sewer sludge. They issue Waste Discharge Requirements but long-distance oversight is not desirable.

An experiment the Central Valley Regional Board oversaw to pasteurize sludge in Oakdale, Stanislaus County, had to be shut down. We have videos of heavy equipment burying the sludge on the site. This project is one reason Stanislaus County formed a Sludge Task Force to draft an ordinance.

- C. "Biosolids and recycled water . . . have been proven as safe to human health and the environment."

HUMAN HEALTH

I ask anyone in the sludge industry to provide just one epidemiology study which proves the health safety of sludge application to farmland.

1) OHIO STUDY

When it comes to proving health safety, a study done in Ohio in the mid 1980's is always cited. This study does not prove health safety and even has a disclaimer on the front page not to use the data to predict health risks associated with sludges containing higher levels of disease agents, higher application rates and larger acreages treated per farm.

Application rates ranged from .8 T/acre to a maximum of 4.9 T/acre. The average spread site was 37 acres in Medina and Clark Counties and 116 acres on 18 of the 25 farms in Franklin and Pickaway Counties. Additionally, less than 28 percent of the farms which began the study actually completed the full three year study.

On page 333 of the study it says, "there remain questions about the human health and animal health consequences of this practice."

2) OCEAN DUMPING BAN ACT (12 Mile Site) and OCEAN DUMPING REFORM ACT (106 Mile Site)

The legislative history of these two acts seems to explain why U.S. EPA has not actively investigated health complaints concerning land application of sludge.

U.S. EPA tried to force New York City to end ocean dumping of sewage sludge in 1981. Sewage sludge was defined to mean sludge which "unreasonably degraded the marine environment." The City sued EPA arguing that its sludge did not "unreasonably"

degrade the marine environment because ocean dumping was environmentally preferable to land-based alternatives."

A Federal District Court ruled in favor of New York City (City of New York v. EPA, 543 F. Supp. 1084 (S.D.N.Y. 1981)). U.S. EPA was ordered to revise its regulations and New York City was allowed to continue dumping until EPA determined whether the dumping unreasonably degraded the environment. EPA did not appeal the decision and eight other dumpers were also allowed to continue dumping.

In the meantime, legislation was introduced in both the Senate and House to reverse this decision and end sewage sludge dumping at the 12 mile site. In the face of this pending legislation, EPA, on April 1, 1985 announced its decision to close the existing 12 mile dump site and move the dumping to a new site off the continental shelf known as the 106 mile site. (50 Federal Register 14336).

In making its decision, EPA determined that the New York Bight Apex was heavily degraded and that sludge dumping at the 12 mile site, had contributed to this degradation.

Adverse impacts at least in part contributed by sludge dumping included:

- bacterial contamination and closure of shellfish areas;
- perturbations in water quality in and adjacent to the site;
- elevated levels of toxic metals and organohalogens in bottom sediments in and near the site including known fishing areas and within five nautical miles of coastal beaches;
- community changes in relative abundance and diversity of species;
- sublethal toxicity effects in economically valuable species;
- and bioaccumulation of certain metals and organohalogens in fish and shellfish.

With the onset of large scale dumping of sewage sludge at the 106 mile site in 1987, fishermen began to complain of significant decreases in catches and incidences of diseased fish which were previously not found at these depths. Some of the diseased fish have a shell disease which is associated with sewage sludge and pollution in coastal waters. This disease was found around the 12 mile dump site.

On February 2, 1988 Senators Lautenberg, Bradley, Chafee, Biden and Roth introduced, S. 2030, the Ocean Dumping Reform Act. The bill would amend the Ocean Dumping Act to make it unlawful to dispose of sewage sludge at the 106 mile site after December 31, 1991. The term "sewage sludge" is defined to exclude the language referring to unreasonable degradation which was the basis of the 1981 court decision which allowed sludge dumping to continue.

Section 4 amends the Ocean Dumping Act to define the term "sewage sludge" to mean any solid, semisolid, or liquid

waste generated by a wastewater treatment plant.

IMPORTANT "EPA would be precluded from determining whether or not the sewage sludge may unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems and economic potentialities."

(Legislative History, Senate Report No. 100-431,pg7)

These changes are made to reverse the 1981 District Court decision which allowed ocean dumping of sewage sludge to continue. In that case, the Court found that sludge dumping by New York City had not "unreasonably degraded or endangered human health. .".

QUESTION: Does this mean that in exchange for New York City not being allowed to dump sludge in the ocean, the U.S. EPA will not be allowed to determine whether or not sewage sludge may unreasonably degrade or endanger human health?

QUESTION: Does this mean that U.S. EPA's Risk Assessment does not determine whether or not sewage sludge may unreasonably degrade or endanger human health?

3) U.S. EPA Health Risk Assessment

U.S. EPA is relying heavily on its Health Risk Assessment to predict health safety. To say the least, this is an inexact measurement of risk.

The congressional Office of Technology Assessment (OTA) said in a January 14, 1994 Press Advisory, "Health risk assessment research is itself at risk." *Ep 3*

Some of the other comments they made include:

"The attention and resources allotted to health risk assessment research are not commensurate with its impact on public health and the economy.

"Data for assessing risks are usually incomplete usually limited to information from animal tests; more rarely, information is available and requires the use of extrapolations to make predictions of risks in humans and at other exposure levels. The extrapolations are encumbered with great uncertainty.

"Nevertheless, however uncertain the results of health risk assessments, they provide the foundation for health risk-based decisions.

"The research being conducted is without national leadership and coordination and is fragmented within and across at least 12 federal agencies.

(No clear lines of responsibility and accountability.)

- D. "in fact, in all the years that properly treated biosolids have been applied to the land, we have been unable to find one documented case of illness or disease that resulted" (Martha Prothro, former Deputy Assistant Administrator for Water, U.S. EPA, statement made September 1, 1992) (Page 4, Item 4.A., Tri-TAC paper)

Martha Prothro may have chosen her words correctly about being "unable" to find one documented case of illness or disease.

QUESTION: Has EPA been "unable" to find one documented case of illness or disease because the court has precluded investigation of complaints concerning illness?

III. TRANSFER OF LIABILITY

There are four reasons why liability should be an issue for farmers.

1) EPA removed sludge from the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) because sludge is now "a normal application of fertilizer." That means if a problem of soil or water contamination results, there will be no help from the Federal government to remedy the problem. cf 4

2) Municipalities do not sign the contract with the landowner who accepts the sludge. Typically, they hire a person to remove the sludge and that person finds farmers willing to take it. He signs the contract with the landowner so there is no direct link between the landowner and the municipality.

3) Farm liability policies contain a "Pollution Exclusion" which says in essence, if a farmer brings any material onto the farm for recycling and contamination results, there will be no insurance coverage. Have your insurance agent explain what a pollution exclusion is.

4) Even pollution legal liability policies contain exclusions. One I have in my possession has 17 specific exclusions which fill 2 pages of the policy. Number 8 excludes soil and water contamination. So, if a certificate of insurance certifies that pollution insurance is in force, obtain a copy of the full policy. Have your own insurance agent explain what is and is not covered.

To prevent the transference of liability, a farmer must either get the municipality to sign the contract for the sludge you accept from them, or require a bond or insurance policy which will cover any contamination of crops, soil, or water. Your county can help by requiring either of these to be mandated in a local ordinance.

IV. PUBLIC PERCEPTION OF AN UNSAFE FOOD SUPPLY

Farmers can be severely impacted if the public perceives there is something wrong with the food supply. Ask an apple farmer who was impacted by the Alar scare. Even if there is nothing wrong, if the public thinks something is wrong, there can be serious repercussions for the commodity involved. While U.S. EPA supports landspreading of sludge it will not bear the financial impact if the public doesn't agree with their risk assessment.

Food processors like Del Monte, Heinz U.S.A., Nestle USA, Inc., National Food Processors Association, Tri Valley Growers, and The American Frozen Food Institute prohibit the use of sewage sludge on fields used to produce food crops. Perception is one reason for the prohibition.

We are all aware of the fact that DDT, asbestos, lead in gasoline and lead in paint were once considered safe. The metals limits allowed in the United States are much higher than in Europe, Canada and British Columbia. What if they are right and the U.S. EPA is wrong?

SUMMARY

In summary, the U.S. EPA says sludge is safe. Municipalities and generators of sludge say their sludge is "clean" and spreading it on farmland is safe and even beneficial. Glossy brochures show lush green crops growing where sludge is spread. It would be easier to believe if they would be willing to assume liability for any adverse impacts from spreading their sludge.

Most of a farmer's assets, his ability to generate income and his retirement are tied to his animals and his land. If society needs farmers to dispose of its waste, then society should be willing to accept the liability if the farmer is adversely impacted in the process.

Sludge is an issue which is not going to go away. Since the 1970's the quantity produced has doubled and it is expected to double again by the year 2000 because of the Clean Water Act. Add to that the push to reduce the amount of materials taken to landfills and farmland is the cheapest place to dispose of waste. If a less costly alternative were developed, perhaps there wouldn't be as much emphasis on landspreading. In the meantime, however, farmers and the public need to be educated concerning the possible risks of using sludge.

The Delta Protection Commission is correct to ban the spreading of sewer sludge in the Primary Zone of the Delta.

Thank you for the opportunity to address the Commission.

Statement by Department of Water Resources on the Revised "Draft
Land Use and Resource Management Plan for the Primary Zone of the
Delta" 1/

The Department of Water Resources has completed an initial review of the draft plan and provided a marked up copy to Executive Director Margit Aramburu for consideration by the Commission. We are still reviewing various aspects of the plan and may submit additional suggestions in the near future.

In marking up this draft we have been guided by certain topics which are of paramount concern to the Department and are the focus of our suggested revisions. These fall in three categories:

1. The plan should recognize the unfolding successful process of the CALFED December 15 accord and not include policies that would conflict with this accord. However, continued discussion concerning this subject is certainly necessary since the process is ongoing.
2. DWR's recommendations to the plan are intended to ensure optimal flexibility of the design criteria for Delta levees and preserve all program funding options. Levee standards which intersect a complex array of local, state, and federal concerns must be included in local levee plan decisions.
3. The plan should make a strong effort to welcome future USCE funding that is consistent with the plan. It should send a clear signal to the USCE that unfolding programs which include cost effective levee protection or environmental restoration are highly desirable.

We would like to note that the plan reflects an outstanding effort by Delta Protection Commission staff in dealing with very complex and difficult issues of Land Use Management for the Delta.

1/ Presented by Chief Deputy Director Robert Potter at the Delta Protection Commission January 26, 1995 meeting.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

3443 Roulter Road, Suite A
Sacramento, CA 95827-3098
PHONE: (916) 255-3000
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FEB 01 RECD



30 January 1995

Ms. Margit Aramburu, Executive Director
Delta Protection Commission
P. O. Box 530
Walnut Grove, CA 95690

DRAFT DELTA LAND USE PLAN

Thank you for the opportunity to review the draft *Land Use and Resource Management Plan for the Primary Zone of the Delta*.

The 5 January correction to the language in the Draft proposes the following policy:

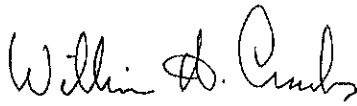
New sewage treatment facilities and holding ponds serving uses outside the Delta shall be located outside the Primary Zone. Local governments shall not acquire or condemn agricultural lands in the Primary Zone for the principal purpose of receiving treated wastewater and or biosolids. To protect long-term viability of agricultural land in the Primary Zone, neither treated wastewater nor biosolids shall be released onto or into such lands.

Note: The Ironhouse Sanitary District project and Rio Vista project, as described in the respective adopted Final Environmental Impact Reports, are exempt from this policy.

We disagree with the proposed policy.

Wastewater and biosolids are generated both outside and inside the Primary Zone. For the best interests of the environment and community, the most environmentally and economically sound methods for disposal of these wastes should be used. These materials can often be beneficially used to augment water supplies or enhance agricultural operations, thus avoiding dumping the of the wastewater into rivers or filling landfills with biosolids. Both the environmental reviews conducted under the California Environmental Quality Act, and the waste discharge requirements adopted by the Regional Board review the standards and conditions under which these wastes can be safely disposed of on land. The proposed policy will unnecessarily restrict alternatives, possibly eliminating the most environmentally and economically feasible projects.

If you have any questions, please contact me at (916) 255-3039 or Kenneth Landau at (916) 255-3026.


WILLIAM H. CROOKS
Executive Officer

cc: Board Members
Mr. Walter Pettit, Executive Director, State Water Resources Control Board, Sacramento
Mr. Steve Ritchie, Executive Officer, San Francisco Bay Regional Board, Oakland

REPLY TO:

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☐ DISTRICT OFFICE
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SENATE CALIFORNIA LEGISLATURE

SENATOR
PATRICK JOHNSTON

FIFTH SENATORIAL DISTRICT
SERVING SACRAMENTO AND SAN JOAQUIN COUNTIES

COMMITTEES:
APPROPRIATIONS
BANKING & COMMERCE
EDUCATION
INDUSTRIAL RELATIONS,
CHAIR
INSURANCE, CLAIMS
& CORPORATIONS
NATURAL RESOURCES
& WILDLIFE
PUBLIC EMPLOYMENT &
RETIREMENT
TRANSPORTATION

February 1, 1995

Ms. Margit Aramburu
Executive Director
Delta Protection Commission
P.O. Box 530
Walnut Grove, CA 95690

I have reviewed the comments expressed by the California Farm Bureau in their letter to you of January 23, 1995. I thought you should know that I have similar concerns to the points they raised and I fully support their recommended changes in the Resource Management Plan. Their suggested changes based on Sections 29760(e) and 29767 of the Public Resources Code clearly represent the spirit and letter of the law embodied in the Delta Protection Act.

I know you have worked hard to provide a balanced approach to the sometimes competing interests within the Delta. I also worked closely with those interests, including the state and local county Farm Bureaus. I believe that it is in everyone's best interest to try to allay the fears of the Delta landowners relative to the long-range goals of the Act. For example, the impacts of proposed environmental mitigation easements in agricultural areas probably should be addressed in the Agricultural Policy P-7, if for no other reason than providing internal consistency within the plan. The policies in the Environment section and the recommendations in the Land Use section seem to support the Bureau's concern that environmental mitigation in agricultural areas should only be promoted when it is consistent and compatible with the ongoing agricultural operations.

I understand from Ross that another issue raised by Farm Bureau at last Thursday's hearing related to the priority that should be given to Delta levee maintenance and rehabilitation. As you might suspect, this was another keystone issue with Delta landowners. Again, I must concur with their logic on this point. As I read the stated goal of the Levee section it is to "give levee rehabilitation and maintenance the priority over other uses of levee areas." It seems the plan's policy would reflect that goal.

Ms. Aramburu
February 1, 1995
Page 2

Although these specific points reflect just two of the several raised by Farm Bureau, I understand they may be somewhat contentious. I hope you will accept my comments in the spirit that they are given; that is, to help represent the legislative intent of the Act and hopefully protect the long-term goals and objectives of the process that we have only just begun.

Sincerely,

A handwritten signature in dark ink, appearing to read 'P. Johnston', with a long horizontal flourish extending to the right.

PATRICK JOHNSTON
Senator, 5th District

PJ:c

DEPARTMENT OF BOATING AND WATERWAYS

1629 S STREET
SACRAMENTO, CA 95814-7291
(916) 445-6281



February 6, 1995

Ms. Margit Aramburu
Executive Director
Delta Protection Commission
P.O. Box 530
Walnut Grove, California 95690

Dear Ms. Aramburu:

I need to "kick the dead horse" one last time. This has to do with the use of the term "Jet Ski" in the background report on Marine Patrol, Boater Education, and Safety Programs.

I have been in touch with Mr. Roger Hagie, Director of Public Affairs for the Kawasaki Motor Corporation, USA, and Chairman of the Personal Watercraft Industry Association, to find out Kawasaki's position on official use of the term *Jet Ski* by public and private agencies. Mr. Hagie informed me of the following:

- *Jet Ski* is a trademark officially registered by the Kawasaki Corporation with the U.S Department of Commerce, and is zealously guarded and protected by Kawasaki. The Kawasaki Corporation strongly disapproves of our use of the term *Jet Ski* in our background report.
- Kawasaki is a strong proponent for the use of the term "personal watercraft" which is growing in both professional and popular use within the boating industry. They suggest the use of the shortened notation "PWC".
- Depending on the circumstances, Kawasaki will take legal action to prevent improper use of their *Jet Ski* trademark.

In view of the fact that our background report contains several comments with regard to "Jet Skis", some of which are negative in nature, and in light of the above comments from Mr. Hagie who is one of several persons presently serving on the Personal Watercraft Task Force convened by the Department of Boating and Waterways, I am once again asking that the term *personal watercraft* be used in the background report in lieu of *Jet Ski*.

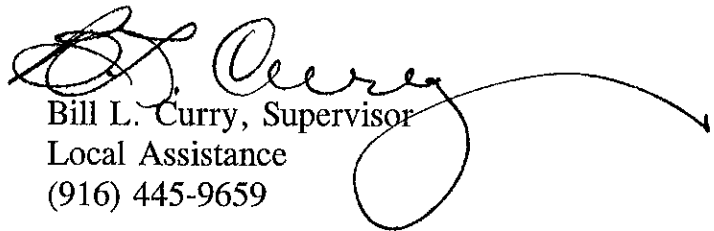
Ms. Margit Aramburu
February 6, 1995
Page Two

This is what I suggest. After the first use of the term "personal watercraft", insert the following notation, after which you can just say "pwc":

"Personal watercraft" (pwc) is the general term for a broad range of small powerboats that typically carry one or two persons, and are popularly known by registered trade names such as *Jet Ski*, *Sea Doo*, etc.

Thank you for your attention to this matter, and please call if you want to discuss it.

Sincerely,



Bill L. Curry, Supervisor
Local Assistance
(916) 445-9659

STATE LANDS COMMISSION

GRAY DAVIS, *Lieutenant Governor*
KATHLEEN CONNELL, *Controller*
RUSSELL S. GOULD, *Director of Finance*

EXECUTIVE OFFICE
1807 - 13th Street
Sacramento, CA 95814-7187

ROBERT C. HIGHT
Executive Officer

February 8, 1995

File Ref.: W30086

Ms. Margit Arambaru
Executive Director
Delta Protection Commission
PO Box 530
Walnut Grove, California 95690

Dear Margit,

Subject: Response of the State Lands Commission (SLC) Staff to Public Comments
Regarding Land Use Finding, F5 and Land Use Recommendation, R2

Current Recommended Finding (F5)

The majority of the lands in the Delta, before they were reclaimed, consisted of tidelands, submerged lands, and swamp and overflowed lands passed by the United States to California in 1850. The State asserts that some lands now believed to be in private ownership remain subject to a public trust easement held by the State for the benefit of all its people, and further, that some such lands never passed from State ownership. This uncertainty in some private titles may be resolved on a case-by-case basis by agreement or litigation between the landowner and the State. A resource management plan designating land uses for private ownership and public trust purposes, including agricultural land use water-related, commerce, navigation, fisheries, recreation, open space, and habitat would minimize conflicts with any property interests retained by the State.

Public Comments and Recommendations

1. D. Nomellini: Add to findings "State claims on land titles create a cloud on the title which limits the ability of private owners to finance their operations. The viability of private enterprise is essential to maintenance of the economy of the area which in turn supports the essential long-term maintenance of the Delta levees. State recognition of long-standing private land ownership should be a part of such resource management."
2. John R. Gamper (CFBF). "The Land Use Finding F5 relative to the ownership dispute on some lands in the Delta should be amended in the fourth sentence to read: A resource management plan designating land uses for private ownership and public trust purposes

including agricultural land uses, wildlife and aquatic habitat, recreation, open space and navigation would minimize the need for boundary settlements."

3. John Baranek. "Findings needs to be revised to reflect the new State law recently passed that the State Lands Commission has the burden of proof on lands they claim for the public trust that have been in private ownership prior to 1950."

SLC Staffs' Revised Land Use Recommended Finding F5

F5 The majority of the lands in the Delta, before they were reclaimed, consisted of tidelands, submerged lands, and swamp and overflowed lands passed by the United States to California in 1850. The State asserts that some lands now believed to be in private ownership remain subject to a public trust easement, held by the State for the benefit of all its people, and further, that some such lands never passed from State ownership. This uncertainty in private titles may be resolved on a case-by-case basis by agreement or litigation between the landowner and the State. Unresolved uncertainties in title related to State assertions of public trust ownership interest may create a cloud on private title which limits the ability of private owners to finance their operations. Adequate financing of private enterprises is essential to maintenance of the economy of the area which in turn supports the essential long-term maintenance of Delta resources and levees. A resource management plan designating land uses for private and public trust lands and addressing public trust purposes and needs, including agricultural land uses, wildlife and aquatic habitat, recreation, open space, water-related commerce, and navigation would minimize the need for resolving title disputes through boundary settlements or litigation.

F5 Comments on The John Baranek Recommendation. No change to F5. There is no need to cite in this document just one of numerous State laws relating to resolution of assertions of State public trust ownership interests in the Delta.

Current Land Use Recommendation R2

R2. A comprehensive survey and analysis by the State Lands Commission of the public trust lands in the Delta should be funded by the State to resolve private title/State sovereign interest issues in Delta lands.

Public Comments R2

1. John R. Gamper (CFBF). "We also strongly recommend the deletion of Land Use Recommendation R2 because the resource management plan will not be furthered or enhanced in any way by encouraging the State to finance their ongoing adversarial role of the State Lands Commission against private landowners. Furthermore, it makes little sense from a local government revenue and taxation perspective or for purposes of the

Margit Arambaru
February 8, 1995
Page Three

land's management to encourage the State to continue the dispute. If anything must be said on this subject, we believe that the State should be encouraged to deal with landowners in a forthright, honorable and evenhanded manner."

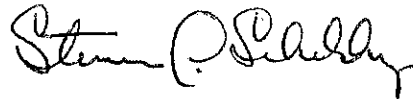
2. A. Hildebrand. "Public findings should only be used to resolve land title issues as they arise, not create controversies that have not otherwise arisen."
3. D. Nomellini. "Edit last two lines to read: be funded by the State to resolve private title on State sovereign interests in Delta lands with the objective of maximizing recognition of private land ownership."

SLC Staffs' Revised Land Use Recommendation R2

Delete R2 in its entirety. The SLC already has legislative direction and established policies to initiate and resolve land title disputes.

If you have any questions, please call me at (916) 322-7825.

Sincerely,



Steven J. Sekelsky
Public Land Manager
Division of Environmental
Planning and Management

cc: Dwight E. Sanders
Jane Sekelsky
Bill Morrison
Duncan Simmons